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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.R.C.No.920 of 2017

And

Cr1.M.P.No.8696 of 2017

Balu @ Balakrishnan

... Petitioner/Respondent

Vs.

1.Ramya

2.S.B.Nadish (Minor)

3.B.Devasri (Minor)

Minor respondents 2 and 3

are represented by their mother/ next friend

The 1st respondent herein

... Respondents/Petitioners

Prayer:

Petition filed under Sections 397 and 401 of Criminal Procedure Code, seeking to set aside the order dated 26.05.2017 made in M.C.No.10 of 2014 on the file of the learned Family Court, Pondicherry.

For Petitioner : Mr.D.R.Arun Kumar

For Respondents : Mr.P.Pandiyaraj

O R D E R

The petitioner has filed this petition seeking to set aside the order dated 26.05.2017 passed in M.C.No.10 of 2014 by the Family Court, Pondicherry.

2.The facts of the case is that the marriage between the petitioner and the first respondent was solemnized on 10.07.2003 at Pollachi. Out of the wedlock, two children were born and thereafter, there was frequent quarrel inbetween them and during March, 2011, the petitioner driven out the respondents from



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home. Thereafter, the first respondent filed M.O.P.No.168 of 2012 before the Family Court, Pondicherry, seeking divorce on the ground of cruelty and the same was decreed on 06.01.2014. Since the first respondent was not able to maintain herself and the children, the respondents filed M.C.No.10 of 2014 before the learned Family Court, Pondicherry seeking maintenance of Rs.5,000/- each per month. The first respondent examined herself as P.W.1 and marked exhibits Ex.P.1 to Ex.P.11. The petitioner examined himself as R.W.1 and also examined R.Ws.2 and 3 and marked any exhibits Ex.R1 and Ex.R2. After adjudication, M.C.No.10 of 2014 was allowed by the Family Court, Pondicherry and a sum of Rs.3,000/- per month was awarded towards maintenance in favour of the first respondent and a sum of Rs.1,500/- each per month was awarded towards maintenance in favour of the respondent 2 and 3 and it was also ordered that the entire educational expenses of the respondents 2 and 3 is to be borne by the petitioner. Aggrieved by the same, the petitioner has filed this revision.

3.The learned counsel appearing for the petitioner submitted that though the quantum of maintenance awarded is not excessive, while the marriage was in subsistence, the petitioner purchased property worth about Rs.50 Lakhs and executed sale deed in favour of the first respondent. Since the property stands in the name of the first respondent, claiming maintenance is not sustainable. He further submitted that the first respondent is receiving a sum of Rs.1,500/- as aid from the Government.

4.The learned counsel appearing for the respondents submitted that the property settled in favour of the first respondent is not in dispute. Further the first respondent has no intention to alienate the property and ultimately the property goes to respondents 2 and 3 who are the children and further submitted that there is no income from the property. Hence citing such ground for denial of maintenance is not sustainable.

5.Heard the submissions made on either side and perused the materials available on record.

6.The facts in the case is not disputed. The relationship between the petitioner and the respondents is not disputed. Though the property stands in the name of the first respondent, it appears that there is no income from the property and the first respondent also have no intention to alienate the property and ultimately the property goes to respondents 2 and 3 who are the children. Hence citing such ground for denial of maintenance is not sustainable. Further, considering the present cost of living, the amount awarded towards maintenance in favour of the respondents by the lower Court is just and



reasonable and this court is not inclined to interfere with the order dated 26.05.2017 passed in M.C.No.10 of 2014 by the Family Court, Pondicherry.

7.This revision is accordingly dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

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To

1. The Judge,
The Family Court,
Pondicherry.

+1cc to Mr.P.Pandiyaraj, Advocate, S.R.No.43792

+1cc to Mr.D.R.Arun Kumar, Advocate, S.R.No.43736

Cr1.R.C.No.920 of 2017
And
Cr1.M.P.No.8696 of 2017

RLD(CO)
RLP(24/09/2021)