

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP (NPD) No.3885 of 2018

Revathi @ Abiramasundari ... Petitioner

Vs

J.Anantha Narayanan ... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 02.08.2018 made in I.A.No.1161 of 2018 in E.P.No.7 of 2016 in O.P.No.1308 of 2008 on the file of II Additional Family Court, Chennai.

For Petitioner : M/s.R.Abirami

For Respondent : Mr.S.Umapathy

ORDER

This Civil Revision Petition is directed against the order dated 02.08.2018 made in I.A.No.1161 of 2018 in E.P.No.7 of 2016 in O.P.No.1308 of 2008 on the file of II Additional Family Court, Chennai, thereby partly allowing the petition to rescind the order granting permanent alimony.

2. The petitioner is the wife and the respondent is the husband. The petitioner filed a petition for divorce on the ground of cruelty and also prayed for permanent alimony.

3. The Court below allowed the petition and the marriage solemnized between the petitioner and the respondent on 14.12.1988 was dissolved and the Court below directed the respondent to pay a sum of Rs.10,00,000/- towards permanent alimony to the petitioner by a Judgment and Decree dated 04.12.2013. As the respondent failed to pay the said amount, the petitioner was constrained to file an Execution petition in E.P.No. 7 of 2016. Pending the Execution Petition, the respondent filed a petition to rescind the order granting permanent alimony of Rs.10,00,000/- to the petitioner.

4. A perusal of the affidavit filed in support of the petition revealed that after grant of decree of divorce, the petitioner got re-married with one Rangarajan Ramabhadran. Therefore, the petitioner did not approach the Execution Court and has totally suppressed the living relationship with the said Rangarajan Ramabadran. Therefore, in lieu of the present relationship she is not entitled for any permanent

alimony as ordered by the Court below. The conduct of the petitioner also shows that she has not remained chaste. She is also running a Textile business in the name and style of Aarthi Designs and running business of 'SHE' Boutique at Srinivasa Street, Goldern George Nagar, Mogappair , Chennai. In fact, she also has branch of her business at MIG 271, Phase No.1, 22 Cross Street, Mogappair West, Chennai.

5. The petitioner filed a counter stating that she got re-married with one Rangarajan Ramabadran on 20.08.2015 after two years of the decree of divorce and the said marriage is valid in the eye of law. Therefore, she approached the Executorial Court with clean hands. She got married with the respondent on 14.12.1988 and due to the wedlock gave birth to two children. When they were minor she was driven out from the matrimonial home by the respondent herein. From the date of their separation, she only had taken care of two children and now the daughter got married and the son is under her custody. Therefore, the respondent ought to have maintained the wife and the children. Further it is averred that the present petition has been filed only after 5 years from the date of grant of permanent alimony.

6. However, the Court below considering the fact that when the petitioner and the respondent were separated from the matrimonial home, the children were at the age of 16 and 9 and subsequently though the petitioner was re-married, held that re-marriage of the petitioner may not change the circumstances and as per Section 25(3) of Hindu Marriage Act, rescind or modified the order of the permanent alimony. Accordingly, the Court below partly allowed the petition to rescind the order of permanent alimony of Rs.10,00,000/- and modified the same and directed the respondent to pay a sum of Rs.2,75,000/- towards the permanent alimony to the petitioner on or before 30.11.2018. It is also revealed that the petitioner had performed her daughters marriage and incurred expenses for education of the son. The respondent has to share the expenses equally and compensate the expenses incurred by the petitioner for the marriage of their daughter.

7. The learned counsel for the respondent also submitted that the respondent is ready and willing to pay another sum of Rs.3,75,000/-. Considering the above submission, this Court directed the respondent to pay another sum of Rs.4,00,000/- as permanent alimony to the petitioner on or before 30.06.2021.

8. With the above direction, the Civil Revision Petition is disposed of. No costs.

23.04.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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To
The II Additional Family Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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