



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2021

CORAM

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

S.A.(MD)No.795 of 2013

and

M.P.(MD)No.1 of 2013

G.S.Kuppusamy

... Appellant/Appellant/Defendant

Vs.

1.K.Geetha

2.Minor.K.Yamini

3.Minor.K.Rushmi

4.Minor.K.Murugan

... Respondents

(R2 to R4 are suo motu declared as major
vide order dated 26.04.2021 in
S.A.(MD)No.795 of 2013 by GRSJ)

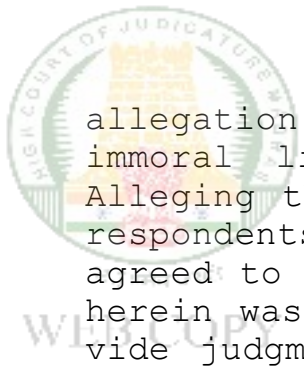
Prayer : Second Appeal filed under Section 100 of Civil Procedure Code, against the judgment and decree passed in A.S.No.85 of 2011, dated 27.06.2013, on the file of the Principal Subordinate Court, Nagercoil, confirming the judgment and decree passed in O.S.No.33 of 2010, dated 29.08.2011, on the file of the III Additional District Munsif Court, Nagercoil.

For Appellant : Mr.G.Ramanathan

For Respondents : Mr.T.Selvakumaran

JUDGEMENT

The defendant in O.S.No.33 of 2010 on the file of the III Additional District Munsif Court, Nagercoil, is the appellant herein. The first respondent herein is the wife of the appellant. The marriage between them took place on 08.06.1995. The respondents 2 to 4 were born through the wedlock. The



allegation of the plaintiffs is that the appellant is leading an immoral life and therefore, they left the matrimonial home. Alleging that the appellant has got a duty to maintain them, the respondents filed the aforesaid maintenance suit. The appellant agreed to take back the respondents. Since the first respondent herein was not willing to accept the said offer, the Trial Court vide judgment and decree dated 29.08.2011 dismissed the suit as far as the first plaintiff was concerned but decreed the suit as regards the children. Aggrieved by the same, the defendant filed A.S.No.85 of 2011 before the Principal Sub Court, Nagercoil. By judgment and decree dated 27.06.2013, the appeal was dismissed. Questioning the same, this second appeal came to be filed.

2.Though the second appeal was filed way back in November 2013, till date it has not been admitted. Therefore, the learned counsel for the appellant submitted that this Court can frame substantial question of law and thereafter hear the appeal.

3.Per contra, the learned counsel for the respondents would submit that no substantial question of law has arisen for determination. He pressed for dismissal of the second appeal.

4.I carefully considered the rival contentions and went through the evidence on record. The relationship between the parties is admitted. The appellant herein got married to the first respondent herein way back in the year 1995. There is also no doubt that the respondents 2 to 4 were born through the wedlock. Therefore, the statutory duty of the appellant to maintain his children cannot be in doubt. The learned Trial Munsif had directed the appellant to pay a sum of Rs.750/- each per month to the children. By no stretch of imagination, can it be said to be an excessive amount. No substantial question of law arises for consideration. I do not find any ground to interfere.

5.When the second appeal was filed the respondents 2 to 4 were minors, therefore, they were represented by the first respondent. It is now stated by the learned counsel for the respondents all the three children have attained majority. Even though a formal petition has not been taken out, I declare that they had attained majority on the respective dates, when they turned to 18. The daughters are yet to get married. Therefore, notwithstanding their attaining majority, the liability of the father to maintain them will remain. The decreetal liability of the appellant to grant maintenance to the son at the rate of 750/- per month is sustained. The appellant will not have any decreetal liability as regards the son, after he crossed the age of majority.



6. With this direction, the second appeal is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

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// True Copy //

Sd/-

Assistant Registrar (T&P)

/ /2021

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Principal Sub Judge,
Nagercoil.
2. The III Additional District Munsif,
Nagercoil.
3. The Record Keeper-2 copies
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.T.SELVAKUMARAN, Advocate (SR-17682[F] dated 27/04/2021)

S.A. (MD) No.795 of 2013
26.04.2021

KM(21.05.2021) 3P 6C