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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A(MD)NO.375 of 2020

and

C.M.P(MD)No.4800 of 2020

Saravanakumar :Appellant/Respondent/Respondent

.vs.

Gunasundari @ Sumathi :Respondent/Petitioner/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act praying this Court to set aside the fair and decretal order passed in I.A.No.168 of 2019 in H.M.O.P.No.117 of 2018, dated 17.09.2019, on the file of Family Court, Dindigul.

For Appellant :Mr.U.Antony Santhosh
For Respondent :Ms.M.Aasha

JUDGEMENT

[Judgement of the Court was made by **PUSHPA SATHYANARAYANA, J.**]

This Civil Miscellaneous Appeal is directed against the order passed in I.A.No.168 of 2019 in H.M.O.P.No.117 of 2018, dated 17.09.2019, on the file of Family Court, Dindigul.

2.The husband, who is the appellant herein, has filed H.M.O.P.No.117 of 2018 for divorce against his wife, in which, the wife had filed the above I.A.No.168 of 2019 in H.M.O.P.No.117 of 2018 claiming a sum of Rs.35,000/- per month as interim maintenance and Rs.50,000/- towards litigation expenses.

3.The learned Family Court Judge, after enquiry, found that the husband is earning a sum of Rs.1 lakh per month which was not denied by the wife. The wife is now taking care of her two children born out of the wedlock.

4.The learned counsel for the respondent would submit that the wife, who was a Professor in a College, is not in employment as on today. There is no reason forthcoming from the wife that why she has not taken any further steps for employment. Both the children are with the mother and started going to school.

<https://hcservices.ecourts.gov.in/hcservices/>

5.The learned Judge, Family Court,Dindigul had awarded the sum as claimed by the wife as interim maintenance without even



considering what is the capacity and commitment of the husband. The appellant has also produced the Medical Report of his parents to show that they have been given medical treatment and also Housing Loans Certificate wherein he has been repaying the loan amount in equal instalments.

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6.Considering the above aspects, it would be appropriate to award a sum of Rs.20,000/-p.m. to the wife towards interim maintenance for herself and the children pending disposal of the above H.M.O.P. The sum of Rs.20,000/-awarded towards litigation expenses would stand confirmed.

7.In the light of the above discussion,the order of the learned Judge,Family Court, Dindigul in I.A.No.168 of 2019 in H.M.O.P.No.117 of 2018, dated 17.09.2019 is modified to the effect that instead of Rs.35,000/-p.m., the Petitioner/husband would pay Rs.20,000/- to the wife towards interim maintenance from the date of petition till the disposal of HM.O.P. The said amount should have been paid from the date of petition till the disposal of the H.M.O.P.No.117 of 2018, without any arrears. If the husband has already paid the interim maintenance at the rate of Rs.35,000/- as per the order of the Court below, the same may be adjusted in the future payments. The learned Judge,Family Court, Dindigul is directed to dispose of the H.M.O.P.No.117 of 2018 as expeditiously as possible.

8.With the above directions, the Civil Miscellaneous Appeal is partly allowed as indicated. No costs. Consequently,connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

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 Judge,
<https://hcservices.ecourts.gov.in/hcservices/>
Family Court,
Dindigul.



2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.AASHA, Advocate (SR-4738[F] dated 12/02/2021)

+1 CC to M/s.U.ANTONY SANTOSH, Advocate (SR-4873[F] dated
12/02/2021)

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and
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KB(12.03.2021) 3P 7C