



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2021

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.156 of 2020

and

C.M.P(MD)No.2607 of 2020

S.Aravind Peace Adhiban

... Petitioner/Respondent/
Petitioner

Vs.

P.S.Minni Starina Evangelin

...Respondent/Petitioner/
Respondent

PRAYER:- Civil Miscellaneous Appeal is filed under Section 55 of I.D.O.P. Act, to call for the records relating to impugned fair and decreetal order dated 20.01.2020 made in I.A.No.1 of 2019 in D.O.P.No.150 of 2019 on the file of Principal District Court, Tirunelveli, set-aside the same and allow this Civil Miscellaneous Appeal.

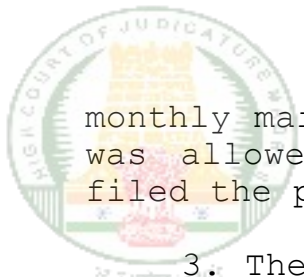
For Appellant : Mr.H.Arumugam
For Respondent : Mr.Mohammed Ibrahim
for M/s.Ajmal Associates

J U D G M E N T

The petitioner has come forward with this Civil Miscellaneous Appeal against the fair and decreetal order dated 20.01.2020 made in I.A.No.1 of 2019 in D.O.P.No.150 of 2019 on the file of Principal District Court, Tirunelveli.

2. The brief facts of the case are as follows:-

The petitioner and respondent were married on 20.09.2000 in accordance with Christian Marriage rites and custom. Out of wedlock, two children were born. Due to family dispute, the petitioner and respondent have been living separately for more than 10 years. Thereafter, the petitioner had filed I.D.O.P.No.150 of 2019 on the file of the Principal District Court, Tirunelveli. Pending petition in I.D.O.P.No150 of 2019, the respondent herein filed petition under Section 36 of Divorce Act in I.A.No.1 of 2019, which was originally filed before Family Court, Vellore in I.A.No.409 of 2018 and later transferred to Principal District Court, Tirunelveli and renumbered as I.A.No.1 of 2019, to pay a sum of Rs.60,000/- for education fee of her two children and to pay sum of Rs.20,000/- per month as



monthly maintenance till the disposal of main petition and the same was allowed. Aggrieved over the same, the petitioner herein has filed the present appeal before this Court.

3. The learned counsel for the petitioner would submit that the petitioner is an LIC Agent and without considering the same, the learned Judge has fixed Rs.5000/- each for his two children and his wife totalling to Rs.15,000/- . He would also submit that the respondent is owning a medical shop and therefore, would pray to allow the present appeal.

4. Per contra, the learned counsel for the respondent contended that the respondent has no permanent income whereas the petitioner is earning more than Rs.3,00,000/- per month as L.I.C. Agent and therefore, prayed for dismissing the above appeal.

5. Heard the learned Counsel for the petitioner as well as the learned Counsel for the respondent and perused the materials placed before this Court.

6. Perusal of record shows that admittedly the marriage between the petitioner and respondent held on 20.09.2000 at Tuticorin and two children namely Arunodhaya Jenefa and Angel Jenefa were born to them. Now, it is seen that the first daughter joined Jayaraj Annapackiam C.S.I College of Engineering, Nazareth and studying first year and the second daughter joined in Government Polytechnic College, Thoothukudi, after completing her 10th standard. The marriage between the petitioner and respondent is still subsisting and the petitioner himself filed main D.O.P petition seeking divorce. There is no proof for any income to the respondent herein. As a husband, the respondent has to maintain his wife and children. Even if a husband is jobless, he has a responsibility to maintain his children.

7. Admittedly, the petitioner is an LIC Agent and his statement that he is getting only Rs.5,000/- is only to escape himself from the liability of paying the amount. The order passed by the learned Judge is a very reasonable order and the interference of this Court is not necessary. Accordingly, this **Civil Miscellaneous Appeal is dismissed**. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

PKN

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To

1.The Principal District Judge,
Tirunelveli.

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

+1 CC to Mr.H.ARUMUGAM, Advocate (SR-5412[F] dated 16/02/2021)

+1 CC to M/s.AJMAL ASSOCIATES (SR-5430[F] dated 16/02/2021)

Order made in
C.M.A(MD)No.156 of 2020 and
C.M.P(MD)No.2607 of 2020
15.02.2021

ES (CO)

SRS (04/03/2021) 3P : 5C