



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.NO.388 OF 2022

M.Mohammed Siddiq Basha

... Appellant

.Vs.

Sultana Begam

... Respondent

PRAYER:-

Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act, to set aside the judgment and decree dated 04.10.2021 in I.A.No.399 of 2018 in O.S.No.65 of 2017 on the file of the Additional Principal Family Judge, Coimbatore, by allowing this Civil Miscellaneous Appeal.

For Appellant : Mr.R.Sundar

J U D G M E N T

[Judgment of the Court was made by V.SIVAGNANAM, J.]

This Civil Miscellaneous Appeal arises against the order of the Additional Principal Family Court, Coimbatore, passed in I.A.No.399 of 2018 in O.S.No.65 of 2017 on 04.10.2021.

2. Brief facts of the case is that the appellant M.Mohammed Siddiq Basha is the husband/plaintiff and respondent Sultana Begam is the wife/defendant in O.S.No.65 of 2017 on the file of the Additional Principal Family Court, Coimbatore.

3. The appellant filed the suit to dissolve the marriage solemnized on 30.04.2015 with the respondent. During the pendency of the above said suit, respondent has filed I.A.No.399 of 2018 in O.S.No.65 of 2017 dated 04.10.2021 and



she prayed for interim maintenance of Rs.50,000/- till the disposal of the suit. Considering the material on records, the Family Court had ordered a sum of Rs.10,000/- per month to the wife as interim maintenance from the date of her application till the disposal of the original petition. Assailing the said order, this appeal is filed.

4. The learned counsel appearing for the appellant submitted that the Family Court failed to appreciate the fact that the respondent is having sufficient means to maintain her. Hence, payment of maintenance does not arise. Further, the Family Court failed to consider the conduct of the respondent and harassment made by her to the appellant. The appellant is earning Rs.10,000/- per month by working as Assistant in A.R.Travels and he is not having sufficient means to pay Rs.10,000/- as interim maintenance to the respondent/wife. Under these circumstances, he pleaded to set aside the order, passed by the Family Court and to allow the appeal.

5. We have considered the matter in the light of the submissions made by the counsel for the appellant and perused the records.

6. There is no dispute that the marriage between the Appellant and Respondent was solemnized on 30.04.2015 as per the Muslim customs at Preetha Mahal, Pothanur road, Coimbatore. Subsequent to the marriage, they lived in appellant's house at Trichy. According to the appellant, the respondent had a first marriage and gave birth to one male child through one Hakkim. Without disclosing the same, she again married the appellant. This fact came to his knowledge after the marriage. A quarrel started between them, after few days, the respondent threatened to commit suicide and insulted the appellant.

7. According to the respondent, the mother of the appellant harassed her and the father of the appellant misbehaved with her. Thereafter, the respondent gave a complaint at Jeeyapuram Police Station dated 17.01.2017. Subsequently, the respondent lodged a complaint before Pothanur Police Station and All Women Police Station, Puliyakulam. The appellant sent Talaq notice on 18.11.2017 for which, the respondent sent a reply. The respondent filed a suit for permanent injunction and also maintenance case in M.C.168 of 2017 before the Family Court, Coimbatore. Thereafter, the appellant filed the suit in O.S.No.65 of 2017 for divorce. In the divorce suit, the impugned order is passed by the family Court.



8. A perusal of records reveals that the appellant is working at Mathina, Saudi Arabia. As per the assets and liability statement filed by the respondent, the appellant is running three companies namely Aru Engineering, AK Engineering and the Aru Construction and earned Rs.10,00,000/- as monthly income and he has also own a house. The appellant denied and contended that he is earning a sum of Rs.10,000/- per month by working as Admin Assistant in A.R Travels. He also stated that he has spent Rs.25,000/- yearly for the maintenance of the child born through her first husband. The respondent before the trial Court filed the documents viz., Ex.R.1 and Ex.R.8 to show that the company run by the appellant as Aru Engineering and Ex.R.2 pertaining to Aru Engineering and Ex.R.10 pertaining to A.K.Engineering. All these companies are run by the appellant. All these are denied by the appellant, the respondent/wife filed a copy of the evidence given by the appellant in DVA.No.383 of 2019 as Ex.P.10, in which, he had stated the owner of the company. The family Court observed that there is no sufficient material to fix the owner of the company and taken into consideration the statement of the appellant in D.V.A.No.383 of 2019 as he receives salary of Rs.4,00,000/- per annum by working as Engineer at Saudi. Under such circumstances, the Family Court directed the appellant to pay a sum of Rs.10,000/- per month to the respondent/wife as interim maintenance from the date of this application till the disposal of the original petition. The payment of Rs.10,000/- per month towards maintenance is not a huge amount. Considering the present cost of living the amount of Rs.10,000/- is sufficient to maintain a women. We do not find any reason to interfere with the order of the Family Court and we justify the order of interim maintenance and find no merits in the appeal.

9. In the result, this Civil Miscellaneous Appeal stands dismissed as devoid of merits. Considering the facts, the original Suit is of the year 2017, the trial Court is directed to dispose of the main suit in O.S.No.65 of 2017 as expeditiously as possible preferably within a period of nine months from the date of receipt of a copy of this Judgement. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsn



To

The Additional Principal Family Judge,
Coimbatore.

WEB COPY

+1cc to Mr.R.Sundar, Advocate, S.R.No.12571

C.M.A.NO.388 OF 2022

PL (CO)
PBS/12/04/2022