



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

CORAM:

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

C.M.A.No.298 of 2022
and
C.M.P.No.2050 of 2022

K.Purushothaman
S/o N.Kotiswaran
No.49, Sparton Nagar
Mugappair East
Chennai - 600 037.

... Appellant

Vs.

G.Bapitha

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act, 1984, to set aside the order in I.A.No.1 of 2021 in O.P.No.3780 of 2019 dated 10.12.2021 passed by the learned VII Additional Family Court at Chennai.

For Appellant : Mr.B.Gopalakrishnan

JUDGMENT

[Judgment of the Court was delivered by K.KALYANASUNDARAM, J.,]

Heard Mr.B.Gopalakrishnan, learned counsel appearing for the appellant and perused the materials available on record.

2.The appellant is the husband of the respondent. Marriage between them was solemnized on 17.04.2017, at H.P.M.Thirumana Mandapam, M.T.H Road, Ambattur, Chennai. The appellant is a B.E (Mech) and MBA graduate. In the year 2018, he filed the original petition against the respondent, seeking divorce on the ground of cruelty. The respondent/wife has filed H.M.O.P.No.3780 of 2019 under Section 9 of the Hindu Marriage Act, seeking restitution of conjugal rights.



3. When the appellant was in the witness box and the case was posted for cross examination, the respondent chose to file an application in I.A.No.1 of 2021, seeking interim maintenance under Section 24 of the Hindu Marriage Act.

4. The case of the respondent is that the appellant is earning Rs.2 lakhs per month and hence she is entitled for Rs.75,000/- as interim maintenance. Though the appellant has filed his counter and stated that the respondent is a Dentist, and she is earning a sum of Rs.1 lakh per month, no evidence was produced to substantiate the same.

5. The perusal of the records shows that the appellant failed to file an affidavit of assets and liabilities as per the direction issued by the Hon'ble Apex Court in the case of Rajnesh Vs. Neha and another reported in 2020 SCC Online SC 903.

6. Considering the above aspects, the Family Court has ordered interim maintenance of Rs.25,000/- per month. Hence, we find no illegality in the order impugned in this Civil Miscellaneous Appeal and hence, in that view, this Civil Miscellaneous Appeal fails and stands dismissed.

7. It is pertinent to note that the divorce petition was filed in the year 2018 before the Sub Court, Poonamallee and it was transferred, at the instance of the respondent, to the Family Court, Chennai and it is in part heard stage. In view of the above, the 7th Additional Family Court, Chennai, shall dispose of both the Original Petitions, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order.

8. It is made clear that the respondent shall cooperate for disposal of the cases as directed by this Court, failing which, this Court will be constrained to modify the interim maintenance ordered in I.A.No.1 of 2021 dated 10.12.2021.

9. It is needless to state that if an application for permanent alimony is filed, it shall be disposed of on merits, without being influenced by the order passed in this Civil Miscellaneous Appeal. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

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To

The VII Additional Family Court at Chennai.

+1cc to Mr.B.Gopalakrishnan, Advocate SR.No.10175

C.M.A.No.298 of 2022
and
C.M.P.No.2050 of 2022

SR II (CO)
GMY (28/03/2022)