



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM

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

C.M.A.No.738 of 2022
and
CMP.No.5350 of 2022

D.Chandran

...Appellant

Vs.

R.Seetha

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, praying that the Hon'ble Court may be pleased to set aside the fair and decretal order dated 18.12.2021 passed in IA.No.2 of 2021 in HMOP.No.385 of 2019 on the file of the Family Judge, Salem.

For Appellant : Mr.R.Ezhilarasan

J U D G M E N T

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

Assailing the order passed by the Family Court, Salem in I.A.No.2 of 2021 in HMOP.No.385 of 2019, the present appeal has been filed.

2. The appellant/husband filed HMOP.No.385 of 2019 for dissolution of marriage solemnized between him and the respondent on 17.01.2010 on the ground of adultery. It appears that subsequently, the respondent/wife filed HMOP.No.37 of 2020 before the same Court under Section 9 of the Hindu Marriage Act. Both the original petitions are pending.

3. The respondent/wife has filed interim application seeking Rs.30,000/- per month as interim maintenance and Rs.1,00,000/- towards litigation expenses. It is her case that the appellant herein without any reason had deserted her and living separately, she has no permanent employment or income and



she borrows money to meet out the litigation expenses. It is her further case that the appellant is doing Textile Business in the name of P.S.V. & Company, and earning Rs.2,00,000/- per month and leading a luxurious life.

WEB COPY

4. In the counter, the appellant has admitted that he is running textile business. In the affidavit of assets and liabilities, he has stated that his income per annum is Rs.6,00,000/-. Considering the fact that son born to the appellant and the respondent is taken care by the appellant, the Family Court directed the appellant to pay Rs.10,000/- per month as interim maintenance and Rs.10,000/- for litigation expenses.

5. It is the submission of the learned counsel for the appellant/petitioner that when the respondent is leading an adulterous life, she is not entitled for interim maintenance and the petition has to be dismissed. We are unable to accept the submissions of the learned counsel appearing for the appellant for the reason that the allegations raised by the petitioner in the divorce petition has not yet been established before the Family Court. It is true that if the allegation of adultery is proved, the respondent will not be entitled for permanent alimony.

6. In the light of the facts and circumstances, we do not find any illegality in the order passed by the Family Court. Hence, this appeal is dismissed. The Family Court shall dispose of the main Original Petition filed by the petitioner as well as the respondent as expeditiously as possible, preferably within a period of six months. The respondent is directed to co-operate for disposal of the main Original Petitions in a time frame. If she attempts to drag on the proceedings, the Trial Court shall set aside the order of interim maintenance and proceed with the case. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

pvs



To

1. The Family Judge, Salem

2. The Section Officer, VR Section High Court, Madras.

+1 CC to M/s.R.Ezhilarasan, Advocate sr 21273.

C.M.A.No.738 of 2022

PMK (CO)

SP (29/04/2022)