



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

CORAM:

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

C.M.A.No.781 of 2022
and
C.M.P.No.5634 of 2022

N.Jeyapal

...Appellant

Vs.

Chitrambalanayagi

...Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act 1984 to set aside the fair and decretal order passed in I.A.No.253 of 2017 in H.M.O.P.No.741 of 2014 on the file of the Principal Family Court, Coimbatore, dated 21.12.2021.

For Appellant:Mr.B.Kumarasamy

JUDGMENT

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

Questioning the order passed in I.A.No.253 of 2017 in H.M.O.P.No.741 of 2014 dated 21.12.2021 by the Principal Family Judge, Coimbatore, the present appeal has been filed.

2.The respondent herein is the wife of the appellant. The marriage between them was solemnized as per the Hindu Rites and Customs on 05.05.2014 at Royar Temple, Avarampalayam Road, Coimbatore. The appellant filed H.M.O.P.No.741 of 2014 under Section 12(1)(b) of the Hindu Marriage Act to declare the marriage as null and void. During the pendency of the Original Petition, the respondent/wife had taken out an application in I.A.No.253 of 2017 seeking interim maintenance of Rs.10,000/- per month and another Rs.1,00,000/- towards litigation expenses. According to the respondent, her husband is working at Vasanth Advanced System (P) Limited in Coimbatore and earning Rs.35,000/- per month, but she is unemployed. During enquiry,



the respondent produced Ex.P.2-Salary Certificate to establish the monthly income of the appellant as Rs.22,500/-. Considering all these aspects, the Family Court directed the appellant to pay monthly maintenance of Rs.3,000/- from the date of petition i.e., 26.04.2017. Challenging the said order, the present appeal has been filed.

3.Mr.B.Kumarasamy, learned counsel appearing for the appellant would urge that the respondent is suffering from "Hypomaniac" disease. To prove the same, the appellant filed I.A.No.794 of 2015 to send the respondent for medical check up at Government Hospital, Coimbatore. The said application was allowed and in compliance of the order, the respondent appeared before the Dean, Coimbatore Medical College Hospital and a report was also sent to the Court on 27.06.2016. Thereafter, she filed I.A.No.588 of 2017 to send her to the Madras Medical College for recheck up her mental status.

4.It is the submission of the learned counsel for the appellant that though the application in I.A.No.588 of 2017 was allowed on 13.12.2017, but so far, she did not appear before the Medical Board for recheck up. In such circumstances, the respondent is not entitled for interim maintenance.

5.We have considered the submission of the learned counsel appearing for the appellant and perused the materials available on record.

6.In the matter on hand, it is an admitted fact that the marriage between the appellant and the respondent was solemnized on 05.05.2014 and the appellant filed original petition in the same year under Section 12(b)(1) of the Act to declare the marriage as null and void. It is the specific case of the appellant that the respondent is suffering from "Hypomaniac" disease. Due to none-cooperation of the respondent, the original petition is pending for the past eight years. The respondent produced the salary certificate (Ex.P.2), which states that the appellant is receiving a sum of Rs.22,500/- per month towards salary.

7. In view of the above fact, we find no reason to interfere with the order impugned in this appeal. Hence, the appeal fails and the same is dismissed. The appellant is directed to deposit the entire arrears to the credit of the main O.P, within a period of four weeks. On such deposit, the respondent/wife is permitted to withdraw the amount only after she appeared before the Madras Medical College for medical check



up as per order dated 13.12.2017 made in I.A.No.588 of 2017. The Family Court, Coimbatore, is directed to dispose of the main O.P, on merits and in accordance with law, without being influenced by any of the observation made in this Judgment, as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this Judgment. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

skn

To

1.The Principal Family Court,
Coimbatore.

2.The Section Officer,
V.R.Section,
Madras High Court,
Chennai.

+1 CC to Mr.B.Kumarasamy, Advocate sr 21923.

C.M.A.No.781 of 2022
and
C.M.P.No.5634 of 2022

PL (CO)
SP (28/04/2022)