



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM:

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

C.M.A.No.809 of 2022
and C.M.P.No.5806 of 2022

D.Aswathrajan ...Appellant/Respondent
Vs.
1. Minor A.Thivvit
Rep by 2nd Respondent Mother
2. P.L.Divya ...Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act 1984 to set aside the fair and decretal order dated 21.12.2021 made in I.A.No.1 of 2019 in H.M.O.P.No.1561 of 2019 on the file of the VII Additional Family Court, Chennai.

For Appellant : Mr.M.Guruprasad

JUDGMENT

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

This appeal is directed against the order of the VII Additional Family Court, Chennai passed in I.A.No.1 of 2019 in H.M.O.P.No.1561 of 2019 dated 21.12.2021.

2.The appellant is the father of the first respondent/ Minor A.Thivvit. The marriage between the appellant and the second respondent/P.L.Divya was solemnized according to the Hindu Rites and Customs on 01.12.2014. During lawful wedlock, the first respondent was born to them on 18.02.2017. The second respondent filed H.M.O.P.No.1561 of 2019 for dissolution of the marriage, whereas, the appellant has filed H.M.O.P.No.609 of 2019 for restitution of conjugal rights. I.A.No.1 of 2019 was filed by the first respondent seeking a sum of Rs.40,000/- as interim maintenance.

3.According to the second respondent, after delivery of the child, her husband and his family members did not take them back to the matrimonial home. Since then she has been taking care of the child with the help of her aged parents. She further stated



that now, the child is doing Pre.K.G and she needs money to meet out his school expenses.

4. The appellant contested the petition and in his counter, it is stated that his wife is a post-graduate degree-holder and she is working as Software Engineer and her monthly earning is Rs.1,00,000/-.It is further stated that the appellant has repaid the delivery expenses and repaying the loan obtained from HDFC Bank.

5.During the hearing, it came to light that both the husband as well as wife are employed and they are earning about Rs.65,000/- per month.Hence, the Family Court rejected the claim of the second respondent and directed appellant to pay interim maintenance to his minor son at the rate of Rs.20,000/- per month.

6.The learned counsel appearing for the appellant Mr.M.Guruprasad would argue that parents of the minor child have equal responsibility, hence, the amount of Rs.20,000/- ordered by the Family Court is on the higher side.

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

8.In the matter on hand, the relationship of the parties is not disputed. It appears that both are working in I.T Companies. Considering the fact that the child is being taken care of by the mother, the Family Court has ordered payment of Rs.20,000/- per month as interim maintenance. Even though, the amount appears to be on the higher side, however, considering the fact that the main original petitions filed for restitution of conjugal rights and divorce are pending for the past three years, we are not inclined to entertain the appeal. So, the Family Court shall dispose of both the original petitions together on merits and in accordance with law, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

9.Accordingly, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

skn



To

The VII Additional Principal Judge,
VII Additional Family Court,
Chennai.

Copy To

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

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.23094

C.M.A.No.809 of 2022
and
C.M.P.No.5806 of 2022

KK(CO)
RGA(21/04/2022)