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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM

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

C.M.A.Nos.1058 and 1059 of 2022
and CMP.Nos.7800, 7801 and 7797 of 2022

A.SenthilMaharaj ...Appellant in both the CMAs/
Respondent & Petitioner

Vs.

K.Kanchana ...Respondent in both the CMAs/
Petitioner & Respondent

Common 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 common order and decretal order dated 30.03.2022 passed in I.A.Nos.1 and 2 of 2020 in HMOP.No.3564 of 2011 on the file of the Principal Family Court, Chennai.

For Appellant : Mr.K.Sugumar
(in both the petitions) for Mr.Gokul Krishnan

For Respondent : Ms.Auxilia Peter
(in both the petitions)

C O M M O N J U D G M E N T

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

Heard Mr.K.Sugumar, learned counsel for the appellant and Ms.Auxila Peter, learned counsel for the respondent.

2. The appellant is the husband of the respondent. O.P.No.3564 of 2011 has been filed by the appellant for restitution of conjugal rights, while O.P.No.1967 of 2015 is filed by the respondent for divorce under Section 13 (1) (ia) (ib) of the Hindu Marriage Act. Both the OPs are pending before the Principal Judge, Family Court, Chennai.



3. The respondent herein filed I.A.No.272 of 2012, seeking interim maintenance. The Family Court, by order dated 16.05.2015, directed the appellant to pay Rs.30,000/- per month to the respondent as interim maintenance. Subsequently, the respondent filed I.A.Nos.1 of 2020, 2 of 2020 and 3 of 2020 for payment of Rs.15,00,000/- towards medical expenses, enhancement of interim maintenance from Rs.30,000/- to Rs.3,00,000/- p.m. and litigation expenses, respectively. The learned Judge allowed I.A.Nos.1 and 2 of 2020 and directed the appellant to pay Rs.5,00,000/- towards medical expenses and Rs.50,000/- as interim maintenance, while dismissing I.A.No.3 of 2020, which was field for litigation expenses. Challenging the same, the present appeals have been filed.

4. The learned counsel appearing for the appellant Mr.K.Sugumar urged that the Family Court, without assigning any reason, has enhanced the interim maintenance. It is also contended that the Family Court, having observed that the respondent had not produced any material to establish medical expenses, but directed him to pay Rs.5,00,000/-, notwithstanding the fact that the appellant has taken Health Insurance Policy for the respondent, from which she can get reimbursement upto Rs.5,00,000/-.

5. Per contra, the learned counsel appearing for the respondent Ms.Auxilia Peter would state that admittedly the respondent is a cancer survivor. Even though in the counter affidavit, it has been stated that the appellant has taken a medical policy for Rs.5,00,000/-, but the same has not been handed over to her, hence, there is no illegality in the order. It is further stated that the appellant has been dragging on the proceedings, hence, the those applications were field to meet out the expenses of the respondent.

6. In reply, the learned counsel for the appellant would state that the appellant has no objection for granting divorce in favour of the respondent and the appellant has agreed to hand over the Insurance Policy to the respondent. He further stated that the trial is almost completed and a direction may be issued to dispose of the Original Petitions.

7. We have heard the submissions of the learned counsels appearing for the parties and perused the materials available on record.

8. In the instant case, there is no dispute that the



marriage between the appellant and the respondent was performed on 09.09.1996 and a female child was born to them on 25.02.2004. Although the child was originally with her mother, presently she is now with her father. The appellant filed Original Petition for restitution of conjugal rights and the respondent filed Original Petition for divorce.

9. Perusal of the impugned order shows that the Family Court, having observed that the respondent has not produced any material to prove the family and medical expenses said to have been incurred by her, however enhanced the interim maintenance from Rs.30,000/- to Rs.50,000/-. Considering the cost of living and to meet the ends of justice, it is appropriate to direct the appellant to pay Rs.40,000/- as interim maintenance to the respondent till the disposal of the Original Petitions. Insofar as medical expenses is concerned, the appellant undertook to hand over the original Insurance Policy to the respondent.

10. In the light of the above, these Civil Miscellaneous Appeals are disposed of with the following directions:-

i) The appellant shall hand over the original Insurance Policy to the respondent forthwith.

ii) The appellant shall pay Rs.40,000/- on or before 7th of every month as interim maintenance from the date of the petition till the date of disposal of the original petitions.

iii) The Family Court shall dispose of the original petitions as expeditiously as possible preferably within a period of three months; and

iv) The parties shall co-operate for disposal of their cases within the time frame.

v) No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Principal Judge,
Family Court,
Chennai.



Copy To

The Section Officer,
VR Section High Court,
Madras.

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+1cc to Mr.Auxila Peter, Advocate, S.R.No. 29350

+1cc to Mr.M.R.Gokul Krishnan, Advocate SR.No.29565 (16/06/22)

+1cc to Mr.M.R.Gokul Krishnan, Advocate SR.No.29564 (16/06/22)

C.M.A.Nos.1058 and 1059 of 2022

SR(CO)
GN(27/05/2022)