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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM

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

C.M.A.No.2839 of 2019  
and CMP.No.14790 of 2019

M.Thirumal ...Appellant/Respondent

Vs.

S.Mythili ...Respondent/Petitioner

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 order dated 16.05.2019 in I.A.No.6029 of 2018 in O.P.No.1615 of 2017 by the IV Additional Family Court, Chennai.

For Appellant : Mr.Ramesh S

For Respondent : Ms.N.Shreya Narayanan  
for Mr.Deepika Murali

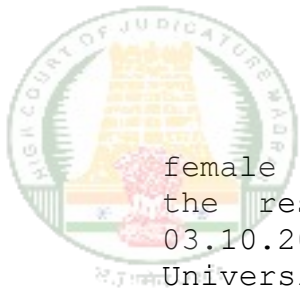
J U D G M E N T

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

This appeal has been filed by the husband, challenging the interim maintenance granted to his wife/respondent in I.A.No.6029 of 2018 in O.P.No.1615 of 2017.

2. The Original Petition has been filed by the wife for granting divorce on the ground of cruelty. Pending O.P., I.A.No.6029 of 2018 was filed by the wife under Section 24 of the Hindu Marriage Act, seeking maintenance of Rs.70,000/- per month and Rs.25,000/- towards litigation expenses.

3. The brief facts of the case are that the marriage between the appellant and the respondent was solemnised on 21.04.2011. A



female child was born to them on 24.07.2013. It is the case of the respondent/wife that they were living separately since 03.10.2015 and her husband is working as a Professor in Delhi University and earning more than one lakh per month.

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4. According to the appellant/husband, his wife was working at HCL Technologies Ltd. That apart, she is owning a flat in Velachery and she has let out the flat for rent at Rs.25,000/- per month. It is further stated that the amount of Rs.19,10,000/- belonging to the appellant is with his wife. Hence, she is not entitled for maintenance.

5. The Family Court Chennai, allowed the interim application, directing the appellant to pay Rs.40,000/- to their child and Rs.10,000/- to the respondent/wife and also ordered Rs.25,000/- towards litigation expenses. Challenging the same, the present appeal has been filed.

6. Pending the appeal, the parties have filed affidavits of assets and liabilities, as per the direction of the Hon'ble Apex Court.

7. The learned counsel appearing for the appellant Mr.S.Ramesh referring to the affidavits of liabilities filed by the parties has stated that admittedly, his wife is owning a flat and she is also getting rental income therefrom. He further added that there is no dispute that Rs.19,10,000/- was deposited by the appellant and the same is withheld by his wife. It is also stated that the appellant is getting a salary of Rs.1,52,000/-, out of which, he is paying EMI of Rs.72,935/- for the Housing Loan he obtained in the year 2014, without considering these aspects, the interim maintenance is ordered by the trial Court.

8. Per contra, the learned counsel appearing for the respondent Ms.M.N.Shreya Narayanan would argue that this appeal is filed against the interim order of maintenance and the Family Court has given valid reason for awarding the amount, hence, no interference is required. It is also stated that only to avail the tax benefits the appellant has deposited the amount of Rs.19,10,000/- in her name. It is also argued that the respondent/wife is getting rental income of Rs.18,000/-, which cannot be a ground for denying interim maintenance to the wife.

9. Heard rival submissions and perused the materials available on record.



10. In the instant case, the relationship between the parties are not in dispute. In the assets and liabilities, the appellant has clearly stated that he is working as a Professor at Delhi University and getting a salary of Rs.1,50,000/-. It is also an admitted fact that the amount of Rs.19,10,000/- deposited by the appellant is lying with the respondent/wife and she is getting rental income from the flat owned by her. Indisputably, the child is now being taken care of by the respondent/wife. In the above circumstances, we find no reason to interfere with the interim maintenance awarded to the child. However, considering the facts and circumstances of the case, Rs.10,000/- awarded as interim maintenance to the respondent/wife is set aside.

11. It is represented that, as per the conditional order, the appellant is paying Rs.25,000/- per month to the respondent, hence the balance amount of the interim maintenance shall be paid by the appellant to the respondent/wife within a period of three weeks. It appears that the main O.P. is in part heard stage, hence, the Family Court shall dispose of the same in accordance with law, as expeditiously as possible, preferably within a period of six months.

12. With the above directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

SD/-  
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

pvs  
To

1. The IV Additional Family Judge,  
Chennai.

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

+1cc to M/s.Deepika Murali, Advocate Sr.9647

C.M.A.No.2839 of 2019

nmi[co]  
srg 24/03/2022