



C.M.A.No.2018 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 20.09.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2018 of 2022

and

C.M.P.No.15437 of 2022

S.D.Sam Solomon Prabu ... Petitioner/Respondent/Appellant

Vs.

M.Sankara Gomathy ...Respondent/Petitioner/Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 55 of the Indian Divorce Act, 2001, against the Fair and Decreetal order dated 14.06.2022 in I.A.No.4 of 2021 in D.O.P.No.92 of 2020 on the file of the learned Additional District Judge, Thiruvannamalai.

For Appellant : Ms.S.Esairani Narasimman



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JUDGMENT

Challenging the order directing the appellant to pay a monthly maintenance of Rs.10,000/- to his wife (the respondent) and his child and a further sum of Rs.10,000/- for litigation expenses, the appellant is before this Court.

2.The brief facts are as follows:

The appellant herein had filed I.D.O.P.No.92 of 2020 on the file of the learned Additional District Judge, Thiruvannamalai, seeking a divorce. In the said petition, the respondent wife had taken out an application in I.A.No.4 of 2021 for a direction that the petitioner should pay a sum of Rs.25,000/- towards maintenance and litigation expenses to the respondent and her child. The respondent had contended that she is unable to go for work as the child was of a very tender age requiring constant attention. It is the case of the respondent herein that the appellant is possessed of sufficient landed



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property and earning a monthly income of Rs.75,000/- and despite earning so handsomely, the appellant had not chosen to maintain the respondent herein and his child.

3.The said application was resisted by the appellant stating that they had lived together only for four months and the respondent had left the matrimonial home on her own volition. The appellant herein had further contended that it was the respondent who had moved out of the matrimonial home and failed to return. Despite several attempts being made by the appellant for resolving the disputes, the respondent herein was not coming forward to rejoin the appellant. He would further submit that the respondent is working at Zoho Corporation Private Limited and earning a sum of Rs.75,000/- per month and that she has possessed of sufficient means and there is no necessity for the petitioner to sustain his wife and child.



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4.The learned Additional District Judge, Thiruvannamalai, before whom the application has been filed had partly allowed the petition, directing the appellant to pay a sum of Rs.10,000/- towards monthly maintenance and further, a sum of Rs.10,000/- towards litigation expenses. Challenging the same, the appellant herein had filed the above appeal.

5.Heard the learned counsel appearing on behalf of the appellant/husband and perused the papers.

6.It is an admitted case that the appellant had not taken any steps whatsoever to pay maintenance to the wife or to his child. The learned Judge has just ordered a sum of Rs.10,000/- for the two of them. This amount would just about make both ends meet. The appellant seeks to shirk his obligation to pay maintenance on the ground that the wife has left the matrimonial home. This defence is



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not available to the appellant. That apart, the maintenance that has been ordered is very low, however, the same has not been challenged by the respondent wife. Therefore, I see no reason to interfere with the order passed by the learned Additional District Judge, Thiruvannamalai.

Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

20.09.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To

The Additional District Judge,
Thiruvannamalai.



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P.T. ASHA, J,

mps

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