



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CMA.No.2844 of 2021 and CMP.No.16355 of 2021

N.Arivazhagan

... Appellant/
Respondent/ Respondent

-vs-

Poorni

... Respondent/
Petitioner/ Petitioner

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act against the fair and decreetal order dated 17.04.2021 made in I.A.No.1/2019 in HMOP.No.1392/2017 by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore.

For Appellant : Mr.M.Aravind Subramanyam

For Respondent : Mr.Balasubramaniam

(Judgment of the Court was pronounced by T.RAJA, J.)

This Civil Miscellaneous Appeal has been filed against the fair and decreetal order dated 17.04.2021 made in I.A.No.1/2019 in HMOP.No.1392/2017 by the learned Additional Principal Judge, Additional Principal Family Court, Coimbatore.

2. Learned Counsel appearing for the appellant-husband found fault with the basis for ordering monthly maintenance of Rs.6,000/- to the respondent-wife submitted that when the appellant in his affidavit has narrated what he is doing, the learned Family Court ought not to have directed the appellant-husband to pay a sum of Rs.6000/- as monthly maintenance to his wife. Further, when the appellant-husband has filed HMOP.No.1392/2017 seeking divorce on the ground of cruelty, the respondent-wife has filed HMOP.No.150/2020 seeking restitution of conjugal rights. The appellant is a student, only pursuing his Law Degree in a Law College at Coimbatore whereas the respondent-wife in her affidavit of assets and liabilities dated 26.02.2021 has clearly mentioned that she is working as a

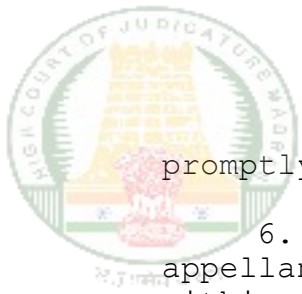


teacher in Suguna Rukmaniammal International Public Venkatesalu Matriculation Higher Secondary School, Gandhipuram and is getting about Rs.18,710/- towards salary. Therefore, when the respondent-wife is working as a teacher and earning a handsome amount, she is not entitled to get maintenance from the unemployed husband/appellant herein. The learned Counsel further submitted that the learned Family Court also without any basis whatsoever wrongly reached a conclusion that the appellant is earning not less than Rs.50,000/- p.m. whereas the respondent-wife is earning about Rs.19,000/- p.m. Therefore, the present Civil Miscellaneous Appeal has to be allowed.

3. But we are unable to find any merits on the argument advanced by the learned Counsel for the appellant-husband. The reason is very simple. The admitted portion of the affidavit filed by the appellant-husband shows that his general monthly expense is about Rs.25,000/- p.m. and his mother who is depending on him requires Rs.20,000/- p.m., therefore, the learned Family Court Judge has come to the conclusion that when the appellant himself has admitted that his monthly expense is Rs.25,000/- and his mother requires Rs.20,000/- p.m., on the basis of the said admitted portion, the appellant is earning Rs.50,000/- p.m. In addition there to, the learned Family Court Judge has mentioned that the appellant in his marriage invitation described himself as a Doctor Arivazhagan and his bank statements would also show that his name is only Dr.Arivazhagan. This apart, Ex.P.4, the Visiting Card of the appellant also shows that he is taking care of Singapore Opticals and is also managing one Sai Paramedical Institute. Therefore, the learned Family Court Judge has come to the conclusion that the appellant's monthly salary is not less than Rs.50,000/- p.m. whereas the respondent wife is earning only about Rs.19,000/- and her father is only an Auto Driver. Hence, on such conclusion reached by the learned Family Court directing the appellant husband to pay a sum of Rs.6000/- p.m. towards maintenance to his wife-respondent herein, in our considered opinion, cannot be found fault with.

4. Learned Counsel appearing for the appellant-husband after advancing lengthy arguments before us stated that if the appellant-husband is given some reasonable time of two months for clearing the arrears of maintenance in view of the Covid-19 pandemic situation, the appellant could pay the entire arrear amount of maintenance and continue to pay the future maintenance amount.

5. Learned Counsel appearing for the respondent-wife fairly giving no objection for the same requested us to direct the appellant to clear the entire arrears within the two months time and also to pay continuously the monthly maintenance



promptly.

6. Placing on record the same, we hereby direct the appellant-husband to clear the entire arrears of maintenance within two months time either remitting the said amount in the name of the respondent-wife's bank account or by way of issuing a Demand Draft or Pay Order and continue to pay the monthly maintenance regularly. The learned Counsel for the respondent is also directed to furnish the bank account details of his client to the appellant so that the arrears of interim maintenance and the future maintenance could be paid without any further delay. Therefore, for all these reasons, it is made clear that the direction given for payment of Rs.6,000/- p.m. towards interim maintenance to the respondent-wife by the appellant-husband cannot be challenged on the ground of any reasonable amount.

7. With these observations and directions, the Civil Miscellaneous Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Principal Judge,
Additional Principal Family Court,
Coimbatore.
2. The Section Officer,
VR Section,
High Court, Madras-104.

+1cc to Mr.M.Aravind Subramanyam, Advocate, S.R.No.1867

CMA.No.2844/2021

SJ(CO)
CT 17/02/2022