



C.R.P(PD)No.2874 of 2021
and CMP.No.20751 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No.2874 of 2021

and

CMP.No.20751 of 2021

B.Premkumar

..Petitioner

Vs.

S.Chitra

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decreetal order dated 21.09.2021 made in IA.No.6 of 2021 in IA.No.1 of 2020 in HMOP.No.4329 of 2019 on the file of the III-Additional Principal Family Court, Chennai.

For Petitioner : Mr.Kirubanandam for

Mr.R.Chavan

ORDER

Aggrieved by the order dated 21.09.2021 passed by the III-Additional Family Court, Chennai, imposing a condition of payment of Rs.2,00,000/- for setting aside the exparte order made in IA.No.1 of 2020,

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an application seeking interim maintenance filed by the wife, the husband has come up with this revision.

2.The husband sought for restitution of conjugal rights in HMOP.NO.4239 of 2021. Pending the said proceeding, the wife sought for interim maintenance under Section 24 of the Hindu Marriage Act. Since the husband remained exparte, the learned Family Judge passed order on 05.11.2020, directing the husband to pay Rs.50,000/- as monthly maintenance and Rs.25,000/-, a one time payment, for litigation expenses. The husband sought to have the exparte order set aside in IA.No.6 of 2021. The learned Family Judge, considering the fact that there has been arrears of maintenance, directed the husband to pay a sum of Rs.2,00,000/- as a condition for setting aside the exparte order.

3.Mr.S.N.Kirubanandam, learned counsel appearing for the husband would submit that the learned Family Judge has directed payment of Rs.2,00,000/- on the premise that interim maintenance has been granted at Rs.75,000/- per month. He would also submit that the learned Family



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Judge has not taken into account a sum of Rs.5,000/- that has been paid by the husband as maintenance, pursuant to the order of this Court passed in a proceeding under Domestic Violence Act. He would also add that the learned XXIII-Metropolitan Magistrate, Saidapet, Chennai has passed an order, directing the petitioner to pay Rs.25,000/- per month as maintenance to the wife on 29.11.2021 and the same should also taken in to account while disposing of this revision.

4.No doubt, there are some errors in the order of the learned Family Judge. She has proceeded on the premise that monthly maintenance awarded was Rs.75,000/- when it is actually Rs.50,000/-. However, the order cannot be set aside for that reason alone. The learned Family Judge has taken into account the total arrears of maintenance and directed the petitioner to pay only Rs.2,00,000/- as a condition for setting aside the exparte order.

5.Taking into account the facts of the case and the fact that IA.No.1 of 2020 has been pending since February 2020, the condition imposed cannot be termed as onerous. Even assuming that the petitioner has to pay only Rs.25,000/- per month, for 20 months, the arrears would be



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Rs.5,00,000/- . The order impugned in this revision has been passed in September 2021. Three more months are to be added now. Therefore, I do not think, the condition imposed by the learned Family Judge could be termed as onerous. This civil revision petition therefore, fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

6.Taking into account the pendency of the revision, the petitioner is granted four weeks time to pay the sum of Rs.2,00,000/- as directed by the Family Court. The exparte order in IA.No.1 of 2020 will be set aside, on payment of Rs.2,00,000/- and production of proof before the Family Court on or before 04.02.2022. The Family Court will make an endeavour to dispose of the application for interim maintenance and the HMOP within a period of six months from the date of receipt of copy of this order in this civil revision petition.

05.01.2022

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Internet:Yes
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To:-

The III-Additional Principal Family Court,
Chennai.



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R.SUBRAMANIAN, J.

KKN

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