IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.01.2022

CORAM

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

C.M.A.No.3467 of 2019 and
C.M.P. No.20329 of 2019

P.Kalaiselvi ... Appellant/Respondent

vs

N.Prasanna ... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 against the decree and judgment dated 02.08.2019 in I.A. No.180 of 2018 in H.M.O.P. No.20 of 2018 passed by the Family Court, Dharmapuri awarding interim maintenance of Rs.5,000/- to the appellant.

For Appellant : Mr.D.Baskar
For Respondent : Mr.S.Balasubramaniam

JUDGMENT
[Judgment of this Court was delivered by T.RAJA, J.]

This appeal has been brought by the appellant, challenging the correctness of the impugned decree and judgment dated 02.08.2019 passed in I.A. No.180 of 2018 in H.M.O.P. No.20 of 2018 by the Family Court, Dharmapuri, awarding Rs.5,000/- per month as interim maintenance.

2.Learned counsel appearing for the appellant, drawing our notice to the Indian Income Tax Return Verification Form/ Acknowledgment, Indian Income Tax Return/ITR-1 Sahaj Individual Income Tax Return for the Assessment years 2010-11 to 2018-19 TDS/Form 26AS/Annual Tax Statement under Section 203AA of the Income Tax Act, 1961, issued to the respondent for the Assessment years 2011-12 to 2020-21, argued that when the appellant has asked only Rs.30,000/- per month towards monthly maintenance to her and her son, the respondent, deliberately suppressing his job before the Family Court, has stated that after resigning his job at Sutherland Global Solutions Private Limited, he started working free lancing job for the past three years and earning Rs.20,000/- to Rs.30,000/- per month. Learned counsel appearing for the appellant further submitted that affidavit of assets and liabilities for Non-Agrarian Deponents has been filed by the appellant showing her financial status and details of her assets, income and expenditure before the Judicial Magistrate, Hosur in D.V.C. No.01/2016, whereas, the respondent has not filed the same. When the order was passed by the Family Court, Dharmapuri, though the respondent has been working in GEBBS Health Care Solutions Private Limited, which could be seen from the TDS and the Income Tax Return filed by the respondent for the relevant assessment years 2018-19, the Family Court, Dharmapuri, accepting the stand taken by the respondent that after resigning his job at Sutherland Global Solutions Private Limited, he started working free lancing job for the past three years and earning Rs.20,000/- to Rs.30,000/- per month, has ordered only a sum of Rs.5,000/- towards interim maintenance to the appellant wife, which is not sufficient to maintain herself and her son.

3.Learned counsel appearing for the respondent submitted that when the appellant wife has approached the Family Court, Dharmapuri seeking interim maintenance, she has not filed the TDS and the Income Tax Returns of the respondent, although those documents were filed before the learned Judicial Magistrate, Hosur, who has been dealing with the D.V.C. No.1 of 2016. Since the above facts would show that the respondent has resigned his job from GEBBS Health Care Solutions Private Limited, it is not fair on the part of the appellant wife to say that the respondent, at no point of time, has resigned his job. Learned counsel appearing for the respondent further submitted that as the appellant is owning agricultural lands to the extent of 1 hectare 91 acres, which could be seen from Ex.R.3/Copy of patta stands in the name of the appellant and three others, she is not entitled to ask for huge monthly maintenance.

4.The argument made by the learned counsel appearing for the respondent cannot be accepted since the same does not carry any merit and the same is running contra to the documents produced by the appellant.

5.We are able to see that after the marriage was solemnised between the appellant and the respondent on 23.08.2012 at Arulmigu Vadapalani Andavar Temple, Vadapalani, Chennai-26, they were blessed with a male child, by name, P.Mridul, who was born on 18.05.2013 at Vellore. A perusal of the counter affidavit filed by the respondent in I.A. No.180 of 2018 in H.M.O.P. No.20 of 2018 would show that the respondent was forced to quit his job, whereas, the Indian Income Tax Return Verification Form/Acknowledgment, Indian Income Tax Return/ITR-1 Sahaj Individual Income Tax Return and TDS/Form 26AS/Annual Tax Statement under Section 203AA of the Income Tax Act, 1961, issued to the respondent for the Assessment years 2010-11 to 2018-19 and 2011-12 to 2020-21 respectively, would show that at the relevant point of time, namely, the respondent, while filing his counter affidavit stating that he was forced to quit his job, has been working in GEBBS Health Care Solutions Private Limited. It is relevant to extract the TDS/Form 26AS/Annual Tax Statement under Section 203AA of the Income Tax Act, 1961, issued to the respondent for the Assessment years 2017-18 to 2020-21 as under:

TDS TRACES

Centralised Processing Cell TDS Reconciliation Analysis and Correction Enabling System

Form 26AS

Annual Tax Statement under Section 203AA of the Income Tax Act, 1961

.See Section 203AA and second provision to Section 206C(5) of the Income Tax Act, 1961 and Rule 31AB of Income Tax Rules, 1962

Permanent Account Number (PAN)	ADIPN6080A **Current Status of PAN:** Active
Financial year	2016-17 **Assessment year** 2017-18
Name of Assessee	PRASANNA NADIKKANNU
Address of Assessee	29/14, F4 RAJUS RUBBLE, LOCO SCHEME 2ND STREET, JANWAHAR NAGAR, TAMIL NADU, 600082

.Above data/status of PAN is as per PAN details. For any changes in data as mentioned above, you may submit request for corrections Refer www.tin-nsdl.com/www/utiitsl.com for more details. In case of discrepancy in status of PAN please contact your Assessing Officer.

.Communication details for TRACES can be updated in 'Profile' section. However, these changes will not be updated in PAN database as mentioned above

PART A – Details of Tax Deducted at Source (All amount values are in INR)

Sr.No.	Name of Deductor					TAN of Deductor	Total amount paid/Credited	Total tax deducted	Total TDS deposited
1	SUTHERLAND HEALTHCARE SOLUTIONS PRIVATE LIMITED					HYDA01772B	536939.00	30229.00	30229.00
Sr.No.	Section	Transaction Date	Status of Booking	Date of Booking	Remarks**		Amount paid/ credited	Tax deducted	TDS Deposited
1	192	31-Aug-2016	F	25-Oct-2016	-		119293.00	4022.00	4022.00
2	192	30-Jun-2016	F	25-Jul-2016	-		136665.00	7868.00	7868.00
3	192	31-May-2016	F	25-Jul-2016	-		132110.00	7868.00	7868.00
4	192	30-Apr-2016	F	25-Jul-2016	-		148871.00	10471.00	10471.00

Sr.No.	Name of Deductor					TAN of Deductor	Total amount paid/Credited	Total tax deducted	Total TDS deposited
1	GEBBS HEALTHCARE SOLUTIONS PRIVATE LIMITED					MUMG13714B	1001861.00	57282.00	57282.00
Sr.No.	Section	Transaction Date	Status of Booking	Date of Booking	Remarks**		Amount paid/ credited	Tax deducted	TDS Deposited
1	192	31-Jan-2017	F	28-May-2017	-		163538.00	13641.00	13641.00
2	192	31-Dec-2016	F	06-Feb-2017	-		142357.00	8959.00	8959.00
3	192	30-Nov-2016	F	06-Feb-2017	-		152174.00	8959.00	8959.00
4	192	31-Oct-2016	F	06-Feb-2017	-		178715.00	13335.00	13335.00
5	192	30-Sep-2016	F	02-Nov-2016	-		152174.00	1284.00	1284.00
6	192	31-Aug-2016	F	02-Nov-2016	-		212903.00	11104.00	11104.00

TDS TRACES

Centralised Processing Cell TDS Reconciliation Analysis and Correction Enabling System

Form 26AS

Annual Tax Statement under Section 203AA of the Income Tax Act, 1961

.See Section 203AA and second provision to Section 206C(5) of the Income Tax Act, 1961 and Rule 31AB of Income Tax Rules, 1962

Permanent Account Number (PAN) ADIPN6080A **Current Status of PAN:** Active

Financial year 2017-18 **Assessment year** 2018-19

Name of Assessee PRASANNA NADIKKANNU

Address of Assessee 29/14, F4 RAJUS RUBBLE, LOCO SCHEME 2ND STREET, JANWAHAR NAGAR, TAMIL NADU, 600082

.Above data/status of PAN is as per PAN details. For any changes in data as mentioned above, you may submit request for corrections Refer www.tin-nsdl.com/www/utiitsl.com for more details. In case of discrepancy in status of PAN please contact your Assessing Officer.

.Communication details for TRACES can be updated in 'Profile' section. However, these changes will not be updated in PAN database as mentioned above

PART A – Details of Tax Deducted at Source (All amount values are in INR)

Sr.No.	Name of Deductor				TAN of Deductor	Total amount paid/Credited	Total tax deducted	Total TDS deposited
1	GEBBS HEALTHCARE SOLUTIONS PRIVATE LIMITED				MUMG13714B	2135542.00	140460.00	140460.00
Sr.No.	Section	Transaction Date	Status of Booking	Date of Booking	Remarks**	Amount paid/ credited	Tax deducted	TDS Deposited
1	192	31-Mar-2018	F	18-May-2018	-	161971.00	15866.00	15866.00
2	192	28-Feb-2018	F	18-May-2018	-	161971.00	15867.00	15867.00
3	192	31-Jan-2018	F	18-May-2018	-	230213.00	22895.00	22895.00
4	192	31-Dec-2017	F	21-Jan-2018	-	161971.00	7143.00	7143.00
5	192	30-Nov-2017	F	21-Jan-2018	-	161971.00	7143.00	7143.00
6	192	31-Oct-2017	F	21-Jan-2018	-	214162.00	18757.00	18757.00
7	192	30-Sep-2017	F	27-Oct-2017	-	161971.00	7218.00	7218.00
8	192	31-Aug-2017	F	27-Oct-2017	-	161971.00	7219.00	7219.00
9	192	31-Jul-2017	F	27-Oct-2017	-	206387.00	16083.00	16083.00
10	192	30-Jun-2017	F	24-Jul-2017	-	208606.00	12746.00	12746.00
11	192	31-May-2017	F	24-Jul-2017	-	152174.00	4755.00	4755.00
12	192	30-Apr-2017	F	24-Jul-2017	-	152174.00	4768.00	4768.00

TDS TRACES

Centralised Processing Cell TDS Reconciliation Analysis and Correction Enabling System

Form 26AS

Annual Tax Statement under Section 203AA of the Income Tax Act, 1961

.See Section 203AA and second provision to Section 206C(5) of the Income Tax Act, 1961 and Rule 31AB of Income Tax Rules, 1962

Permanent Account Number (PAN) ADIPN6080A **Current Status of PAN:** Active

Financial year 2018-19 **Assessment year** 2019-20

Name of Assessee PRASANNA NADIKKANNU

Address of Assessee 29/14, F4 RAJUS RUBBLE, LOCO SCHEME 2ND STREET, JANWAHAR NAGAR, TAMIL NADU, 600082

.Above data/status of PAN is as per PAN details. For any changes in data as mentioned above, you may submit request for corrections Refer www.tin-nsdl.com/www/utiitsl.com for more details. In case of discrepancy in status of PAN please contact your Assessing Officer.

.Communication details for TRACES can be updated in 'Profile' section. However, these changes will not be updated in PAN database as mentioned above

PART A – Details of Tax Deducted at Source (All amount values are in INR)

Sr.No.	***Name of Deductor***				***TAN of Deductor***	***Total amount paid/Credited***	***Total tax deducted***	***Total TDS deposited***
1	GEBBS HEALTHCARE SOLUTIONS PRIVATE LIMITED				MUMG13714B	3212646.00	453515.00	453515.00
Sr.No.	Section	Transaction Date	Status of Booking	Date of Booking	Remarks**	Amount paid/ credited	Tax deducted	TDS Deposited
1	192	31-Mar-2019	F	15-May-2019	-	174929.00	16910.00	16910.00
2	192	28-Feb-2019	F	15-May-2019	-	174929.00	16906.00	16906.00
3	192	31-Jan-2019	F	15-May-2019	-	257854.00	42780.00	42780.00
4	192	31-Dec-2018	F	30-Jan-2019	-	924929.00	224124.00	224124.00
5	192	30-Nov-2018	F	30-Jan-2019	-	174929.00	8229.00	8229.00
6	192	31-Oct-2018	F	30-Jan-2019	-	305499.00	48967.00	48967.00
7	192	30-Sep-2018	F	25-Oct-2018	-	174929.00	8228.00	8228.00
8	192	31-Aug-2018	F	25-Oct-2018	-	174929.00	8229.00	8229.00
9	192	31-Jul-2018	F	25-Oct-2018	-	264375.00	36137.00	36137.00
10	192	30-Jun-2018	F	02-Aug-2018	-	174929.00	8229.00	8229.00
11	192	31-May-2018	F	02-Aug-2018	-	235486.00	26744.00	26744.00
12	192	30-Apr-2018	F	02-Aug-2018	-	174929.00	8032.00	8032.00

TDS TRACES

Centralised Processing Cell TDS Reconciliation Analysis and Correction Enabling System

Form 26AS

Annual Tax Statement under Section 203AA of the Income Tax Act, 1961

.See Section 203AA and second provision to Section 206C(5) of the Income Tax Act, 1961 and Rule 31AB of Income Tax Rules, 1962

Permanent Account Number (PAN) ADIPN6080A **Current Status of PAN:** Active

Financial year 2019-20 **Assessment yea**r 2020-21

Name of Assessee PRASANNA NADIKKANNU

Address of Assessee 29/14, F4 RAJUS RUBBLE, LOCO SCHEME 2ND STREET, JANWAHAR NAGAR, TAMIL NADU, 600082

.Above data/status of PAN is as per PAN details. For any changes in data as mentioned above, you may submit request for corrections Refer www.tin-nsdl.com/www/utiitsl.com for more details. In case of discrepancy in status of PAN please contact your Assessing Officer.

.Communication details for TRACES can be updated in 'Profile' section. However, these changes will not be updated in PAN database as mentioned above

PART A – Details of Tax Deducted at Source (All amount values are in INR)

Sr.No.	***Name of Deductor***				***TAN of Deductor***	***Total amount paid/Credited***	***Total tax deducted***	***Total TDS deposited***
1	GEBBS HEALTHCARE SOLUTIONS PRIVATE LIMITED				MUMG13714B	692726.00	55202.00	55202.00
Sr.No.	Section	Transaction Date	Status of Booking	Date of Booking	Remarks**	Amount paid/ credited	Tax deducted	TDS Deposited
1	192	30-Jun-2019	F	08-Aug-2019	-	195920.00	12715.00	12715.00
2	192	31-May-2019	F	08-Aug-2019	-	217849.00	12715.00	12715.00
3	192	30-Apr-2019	F	08-Aug-2019	-	278957.00	29772.00	29772.00

6.A perusal of the above would show that the respondent, at no point of time, has resigned his job, which could be seen from the TDS/Form 26AS/Annual Tax Statement under Section 203AA of the Income Tax Act, 1961, issued to the respondent for the Assessment years 2017-18 to 2020-21. Moreover, the Family Court, Dharmapuri, taking note of the fact that copy of patta stands in the name of the appellant and three others, which was marked as Ex.R.3, has held that since the appellant's family is having 1 hectare 91 acres of land (1.91 x 2.47 = 4.7 acres) and if 4.27 acres are owned by 4 members, each member may get 1.2 acres approximately, it will be sufficient for the appellant to maintain herself. As this Court could not assume or presume as to whether the above lands are dry land or wet land, the findings made by the Family Court, Dharmapuri cannot be acceptable.

7.When the appellant has established her case that the respondent has been working in GEBBS Health Care Solutions Private Limited because his salary has been subjected to the TDS as we have highlighted above, we are unable to support the impugned order passed by the Family Court, Dharmapuri. Since the respondent has suppressed and concealed his job by stating that he quit his job and he has not even filed the affidavit of assets and liabilities before the Family Court, Dharmapuri on the ground that there is no need for filing affidavit of assets and liabilities before the Judicial Magistrate, Hosur, who is dealing with D.V.C. No.1 of 2016 and he has not taken any step to file the same even before this Court, his denial to pay monthly maintenance to his wife and son is not only unreasonable but also highly unjustifiable. Therefore, we are inclined to direct the respondent to pay the monthly maintenance at the rate of Rs.30,000/- and to pay the arrears of monthly maintenance from July 2018. Accordingly, the respondent is directed to pay Rs.30,000/- towards monthly maintenance on or before 5th of every month and to pay the arrears of monthly maintenance at the rate of Rs.30,000/- before the Family Court, Dharmapuri from July 2018 within a period of four weeks from the date of receipt of a copy of this order. The Family Court, Dharmapuri is directed to take up the H.M.O.P. No.20 of 2018, after ensuring the full payment of arrears by the respondent as ordered by us and dispose of the same expeditiously. Therefore, the decree and judgment dated 02.08.2019 passed by the Family Court, Dharmapuri in I.A. No.180 of 2018 in H.M.O.P. No.20 of 2018 are set aside. Accordingly, the appeal stands allowed. No costs. Consequently, C.M.P. No.20329 of 2019 stands closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Judge Family Court,
Dharmapuri.

Copy to
The Section Officer,
V.R. Section,
High Court, Madras.

+1 CC to Mr.R. Thamaraiselvan, Advocate sr 2672

C.M.A.No.3467 of 2019 and
C.M.P. No.20329 of 2019

SSV(CO)
SP(19/04/2022)