



C.M.A. No.2665 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.VAIDYANATHAN**
and
THE NONOURABLE MR.JUSTICE **MOHAMMED SHAFFIQ**

C.M.A. No.2665 of 2022 and
C.M.P. No.20886 of 2022

N.Sooriya Gomathy

.. Appellant

Vs.

V.Lakshmi Narayanan

.. Respondent

* * *

Prayer : Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act r/w Section 28 of Hindu Marriage Act against the fair and decretal order dated 26.07.2022 in I.A. No.1 of 2021 in F.C.O.P. No.188 of 2021 on the file of Family Court, Vellore.

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For Appellant : Mr.K.M.Kalicharan



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J U D G M E N T

S.VAIDYANATHAN, J.
AND
MOHAMMED SHAFFIQ, J.

Challenging the fair and decretal order of the Family Court, Vellore, dated 26.07.2022 made in I.A. No.1 of 2021 in F.C.O.P. No.188 of 2021, the present civil miscellaneous appeal has been filed.

2. The appellant has submitted that she has filed a petition for interim maintenance and litigation expenses in terms of Section 24 of the Hindu Marriage Act, 1955. According to the appellant, she married the respondent on 29.10.2010 and two children were born out of the wedlock. It is stated that the respondent/husband has filed a petition for restitution of conjugal rights and that the wife has left the matrimonial house without any reason. She further submitted that she is working as teacher in a private aided school and she has no source of income and that the husband is earning a sum of Rs.50,000/- per month from his business apart from annual rental income of Rs.5,00,000/-. Hence she prayed that a sum of Rs.30,000/- shall be paid towards maintenance apart from Rs.5,000/- towards litigation expenses.



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3. The respondent/husband while filing a counter has admitted the marriage and the children born to them, has stated that he was running a computer centre and was earning a sum of Rs.25,000/- per month and that there is no rental income, as alleged by the appellant and that the mother is the owner of the property, who is receiving the rent and he has no right over the property. He further stated that he was remitting a sum of Rs.3,000/- once in three months towards LIC premium and also postal scheme for his children.

4. After hearing both the parties, the lower forum came to the conclusion that the appellant is working as a teacher and she was drawing a sum of Rs.45,000/- per month as salary and that she was having an independent income. Taking note of the fact that the appellant could manage her expenses towards residence, food and clothes, the request for maintenance sought for by the appellant was rejected. Though various allegations have been made as could be seen from the documents produced before this court about the character of the respondent/husband, we do not want to go into the same in the present civil miscellaneous appeal, as it is for the trial court to decide. Since the claim has been made by the appellant only for self and that



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the Family Court, Vellore has rightly rejected the claim of the appellant on the ground that the appellant being a teacher earning a sum of Rs.45,000/- per month as salary, we are of the view that the claim for maintenance and litigation expenses has been rightly rejected by the Family Court. We are not inclined to interfere with the order of the Family Court, Vellore and the same deserves confirmation.

5. Accordingly, the civil miscellaneous appeal is dismissed. However, there is no order as to costs. Consequently, the connected civil miscellaneous petitions are closed.

[S.V.N., J.] [M.S.Q., J.]
05.12.2022

Asr

Index : Yes/No

To
The Family Court, Vellore



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