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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A(MD)No.379 of 2022

and

C.M.P(MD)No.3362 of 2022

V.P.Hariprakash

... Appellant/Respondent/Petitioner

.vs.

A.T.Sundarambigai

... Respondent/Petitioner/Respondent

PRAYER: Appeal filed under Section 19(1) of Family Court Act, against the order dated 14.12.2021 passed in I.A.No.688 of 2019 in H.M.O.P.No.1129 of 2018 on the file of the learned Judge, Family Court, Madurai District.

For Appellant

:Mr.N.Sathish Babu

For Respondent

:Mr.D.Nallathambi

JUDGMENT

R.SUBRAMANIAN, J.

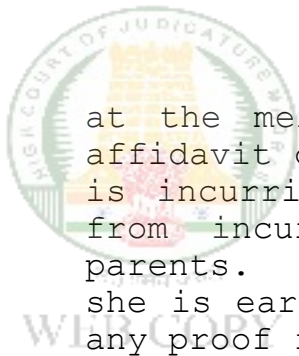
AND

N.SATHISH KUMAR, J.

Challenge in this appeal is to the order dated 14.12.2021 passed by the learned Judge, Family Court, Madurai, granting interim maintenance, till the disposal of H.M.O.P.No.1129 of 2018.

2. The husband / the appellant herein, sought for divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955. Pending the said petition, the wife sought for interim maintenance. She prayed for Rs.30,000/- per month towards maintenance for herself, Rs.10,000/- per month for the child and Rs.25,000/- towards litigation expenses.

3. This claim was resisted by the husband contending that though he was working abroad, he has left the job. He started a Restaurant business in Indonesia. As he could not carry on the business, he was forced to close it on 03.10.2019 and he is living



at the mercy of his parents. When he was required to file an affidavit of assets and liabilities, the appellant disclosed that he is incurring monthly expenditure of Rs.18,000/- for himself apart from incurring Rs.10,000/- monthly expenses for his dependent parents. He also claimed that his wife is employed in a bank and she is earning Rs.20,000/- per month. He, however, did not produce any proof for such employment.

4. The Family Court upon consideration of the materials on record concluded that a sum of Rs.20,000/- would be reasonable maintenance for the mother and the child. It also directed a sum of Rs.10,000/- to be paid towards litigation expenses.

5. We have heard Mr.N.Sathish Babu, learned counsel appearing for the appellant and Mr.D.Nallathambi, learned counsel appearing for the respondent.

6. While Mr.NSathish Babu, learned counsel appearing for the respondent would vehemently contend that the appellant is jobless and is finding difficult to maintain himself and his parents, Mr.D.Nallathambi, learned counsel for the respondent would point out that the appellant in his counter affidavit filed before the Family Court, stated that he is dependent on his parents. He has however chosen to make a statement in his affidavit of assets and liabilities filed by the Famil Court that he is maintaining his parents.

7. Pointing out the above inconsistencies in the case of the appellant and the fact that the appellant while advertising for the marriage has claimed to be a person from an affluent family, the learned counsel for the respondent would submit that the grant of Rs.20,000/- towards monthly maintenance cannot be said to be unreasonable.

8. We have considered the rival submissions and we have perused the order of the learned Judge, Family Court, Madurai.

9. We find ourselves unable to agree with the contention of the learned counsel for the appellant. The appellant was admittedly working abroad. He also started business abroad and he claimed to have closed the business. Even assuming such closure is true, the appellant cannot deny his liability to maintain his wife and child.

10. Quantum of maintenance would also depend on the status of the appellant. In the affidavit of assests and liabilities filed before the Family Court, the appellant has claimed that he is spending Rs.18,000/- for himself apart from Rs.10,000/- for his parents. If he is spending Rs.18,000/- for himself, he has to pay Rs.20,000/- for the maintenance of his wife and child.



11. We therefore, do not find any reason to interfere with the order of the Family Court and therefore, the Civil Miscellaneous Appeal fails and is accordingly dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Judge,
Family Court,
Madurai District.

Copy to

The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

JUDGMENT MADE IN
C.M.A(MD)No.379 of 2022
20.04.2022

PKP/01.06.2022/3P/4C