



CMA No.255 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

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D.Shanmuga Sundaram

... Appellant

Vs.

K.Chitra

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 to set aside the impugned order and decree dated 10.11.2022 passed in I.A.No.2 of 2021 in O.P.No.2211 of 2020 by the learned III Additional Principal Family Court, Chennai.

For Appellant : Mr.P.Udhayashankar

For Respondent : Mr.N.Kamaraj



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J U D G M E N T

(Judgment of the Court was delivered by D.KRISHNAKUMAR, J.)

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Challenging the order dated 10.11.2022 passed in I.A.No.2 of 2021 in O.P.No.2211 of 2020 by the learned III Additional Principal Family Court, Chennai, this Criminal Miscellaneous Appeal has been filed.

2. The appellant herein is the husband of the respondent and she filed a petition in O.P.No.2211 of 2020 before the Family Court to dissolve the marriage between her and the appellant, which was solemnized on 06.06.2019. Pending petition, she filed an application in I.A.No.2/2021, seeking interim maintenance of Rs.30,000/- per month. The learned Judge, vide order dated 10.11.2022, has directed the appellant herein to pay a sum of Rs.15,000/- per month and also to pay the arrears of maintenance from the date of filing the application, within two months from the date of order. Challenging the above order, the present appeal has been filed by the husband/appellant.



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3. The learned counsel for the appellant submitted that, the respondent is a M.Com Post Graduate degree holder and she is working in a Software company and earning a sum of Rs.25,000/- per month. He further submitted that the respondent is living with her parents in their own house and her father is retired employee of Chennai Harbour and is getting pension and hence, her parents are not depending the respondent. He further submitted that the appellant has to take care of his aged parents and to maintain himself and hence, he is not able to pay such an excessive amount of Rs.15,000/- as interim maintenance to the respondent. The learned Judge, without considering the contentions made by the appellant, has passed the impugned order and hence, the same is liable to be set aside.

4. The learned counsel for the respondent submitted that the appellant is working as Pharmacists in the Southern Railway Hospital and he is earning a sum of Rs.59,000/- per month. He further submitted that the respondent is not working in any of the company and she is living with her parents and hence, the maintenance amount is required to maintain herself, as such, the order passed by the Family Court does not warrant any



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interference by this Court.

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5. Heard the learned counsel for appellant and the learned counsel appearing for the respondent.

6. It is an admitted fact that the appellant is working as Pharmacist in the Southern Railway Hospital and is earning a sum of Rs.59,000/- per month. Though the appellant stated that the respondent is a working woman, to prove the same, he has not filed any documents. It is also an admitted fact that now, the respondent is staying with her parents. However, it does not restrain the appellant from paying maintenance amount to the respondent. To maintain herself and for her personal expenses, some reasonable amount should be paid by the appellant as interim maintenance to the respondent till the disposal of the O.P.No.2211/2020. The specific contention of the appellant is that the parents of the respondent are not depending on the respondent and they are living on their own income. Therefore, we are of the opinion that awarding a sum of Rs.10,000/- per month towards interim maintenance would be a reasonable amount.



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7. At this juncture, the learned counsel appearing for the respondent/
wife submitted that the respondent is agreed for the interim maintenance of
Rs.10,000/- per month.

8. Accordingly, we inclined to the dispose the Appeal, with the
following direction.

(i) The appellant/husband shall pay a sum of Rs.10,000/- per month
as interim maintenance to the respondent/wife on or before 10th day of every
succeeding English Calender Month, till the disposal of O.P.No.2211/2020.

(ii) The appellant/husband shall pay the arrears of interim
maintenance at Rs.10,000/- per month, from the date of application in
I.A.No.2/2021 in O.P.No.2211/2020 till the date of payment of arrears
amount, within two months from the date of receipt of a copy of this order.

(iii) The learned III Additional Principal Judge, Family Court, Chennai
is directed to dispose the O.P.No.2211 of 2020, within four months from the
date of receipt of a copy of this order.



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WEB COPY 9. With the above direction, this Civil Miscellaneous Appeal is disposed of. No costs.

(D.K.K.J.) (K.G.T.J.)

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Index : Yes/No
Internet : Yes/No
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To

The III Additional Principal Judge,
Family Court, Chennai.



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