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C.R.P. No. 690 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 690 of 2023
and
C.M.P. No. 5449 of 2023

J.Francis Xavier
S/o. John Sowriraj

... Petitioner

Vs

1. B.Patricia Lavaraentiana

2. F.Maria Jenita (minor)

... Respondents

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to struck off the E.P.No.16 of 2022 in I.A.No.1 of 2019 in O.P. No. 999 of 2019 on the file of Hon'ble III Addl. Family Court, Chennai is illegal.

For Petitioner : Mr.P.Manikannan

For Respondents : Ms.T.S.Selvarani



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ORDER

The Revision Petitioner is the husband/judgment debtor in E.P.No.16 of 2022 and O.P. No. 999 of 2018. The 1st respondent wife filed an application seeking for interim maintenance in I.A.No.1 of 2019, wherein the trial judge awarded maintenance, but the same was not complied by the Revision Petitioner husband. Subsequently, the 1st respondent wife filed an execution petition praying to attach the salary of Revision Petitioner husband. Accordingly, in E.P. No.111 of 2021, as the husband has not paid the arrears of maintenance of Rs.5,60,000/-, the executing court ordered for attachment of salary for 29 months, which starts from January 2022. Thereafter, for the remaining balance amount, 1st respondent wife filed the present Execution Petition for arrest. However, as per the earlier order of this court, a sum of Rs.20,000/- was deducted from the Revision Petitioner's salary and the remaining sum of Rs.4,20,000/- is due to be paid by him and now if he is ordered to arrest, he will be put into much hardship.



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2. The learned counsel for respondents would submit that since the Revision Petitioner husband has not paid the arrears of maintenance, the 1st respondent wife filed earlier Execution Petition in E.P. No. 111 of 2021 and since the amount was not totally deducted, she has filed subsequent execution petition for arrest for the remaining sum of Rs.4,20,000/-.

3. Admittedly, as per the salary certificate produced by the Revision Petitioner, from January 2022, a sum of Rs.20,000/- was ordered to be deducted from the salary of the revision petitioner, as he is employed in Port Trust. Upto January 2023, a sum of Rs.20,000/- was deducted from his salary. Now, he has stated that his take home salary is only a sum of Rs.36,000/-, however, as per the contention of learned counsel for respondent, only for the maintenance of children alone, he is paying the amount and now there is a balance of Rs.4,20,000/- due to be paid. As the maintenance was ordered only for the children, the same was also not complied with. Though he is receiving total gross amount of Rs.1,29,000/- as per the salary certificate, after the deduction, now his take home salary is Rs.32,000/- out of which a sum of Rs.20,000/- is ordered to be deducted.



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Moreover, the children were under the care of 1st respondent, who are studying in the college and they have to be maintained by the father, but he failed. So, on considering the facts and circumstances and on considering submissions of both sides, apart from deduction of Rs.20,000/- from his salary, this Court is inclined to direct the Revision Petitioner to pay a sum of Rs.7000/- per month to the respondents till the realisation of that amount. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

31.03.2023

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

Addl. Family Court,
Chennai.



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T.V.THAMILSELVI, J.

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