



C.M.A.No. 608 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND**

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No. 608 of 2023

G.Dhamodharan

...Appellant

Vs.

1.C.Preethika

2.Master Ranadev Sai

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 19 of Family Courts Act, to set aside the fair and decreetal order dated 11.01.2023 in I.A.No.1 of 2022 in H.M.O.P.No.5223 of 2021 passed by the learned III Additional Principal Family Judge, Chennai and allow the appeal.

For Appellant : Mr.M.P.Saravanan



C.M.A.No. 608 of 2023

WEB COPY

ORDER

(Judgment of the Court was delivered by K.GOVINDARAJAN THILAKAVADI,J.)

This civil miscellaneous appeal is filed as against the order dated 11.01.2023 passed in I.A.No. 1 of 2022 In H.MO.P.No.5223 of 2021 on the file of III Additional Principal Judge, Family Court, Chennai. Pending O.P.No.5223 of 2021, I.A.No.1/2022 was filed by the respondents herein under Section 24 of the Hindu Marriage Act praying to direct the appellant herein to pay a sum of Rs.25,000/- per month to the 1st respondent and Rs.25,000/- to the 2nd respondent as interim maintenance and Rs.35,000/- towards litigation expenses to the respondents herein.

2. In the affidavit filed in support of I.A.No.1 of 2022,it was contended by the 1st respondent/wife that the marriage between the first respondent and the appellant was solemnized on 04.11.2020 at Ramasamy Marriage Hall, Kodungaiyur, Chennai. Out of the said wedlock, a male child namely Ranadev Sai was born on 24.05.2021. However, the marital life of the 1st respondent/wife was not happy due to the ill treatment made by the appellant/husband. While so,



C.M.A.No. 608 of 2023

the 1st respondent/wife filed H.M.O.P.No.5223 of 2021 for divorce. Due to the filing of the above divorce petition, the respondents are now depending on her aged parents for survival. The appellant/husband is working as System support Engineer in DXC Technology, at Olimphia Tech Park No.116 Jawaharlal Nehru Road, Guindy, Chennai-32 and drawing salary for a sum of Rs.92,000/- (Rupees Ninety Two Thousand only) and the appellant/husband is a partner in the Textile name and style of "Outfit Men's wear," at No.42, Lakshmi Amman Koil Street, Ramana Nagar, Perambur, Chennai-11, from which Textile business, the respondent getting income of Rs.50,000/-(Rupees Fifty thousand only) per month. Therefore the appellant/husband, being a father, is bound to pay maintenance to the minor son that apart she is also entitled for maintenance has claimed in the petition.

3.The said application was resisted by the appellant/husband by filing a counter, stating that the 1st respondent/wife is employed in Cogizant Technology Company and earning a sum of Rs.45,000/- (Rupees Forty five thousand only) per month and therefore, the 1st respondent/wife is not eligible for maintenance and he would take care of his son, if the child is handed over to his custody.



C.M.A.No. 608 of 2023

WEB COPY

4. Before the Family Court, both the appellant/Husband and the 1st respondent/wife did not examine any witnesses. The Family Court, taking into account the rival pleadings as well as the submissions made on behalf of both parties, rendered a specific finding that, there is no proof to establish the income of the 1st respondent/wife and therefore, the appellant/husband is liable to maintain his wife and his son.

5. Aggrieved by the said order, the appellant/husband has preferred an appeal stating that the interim maintenance awarded by the Family Court in I.A.No. 1 of 2022 is excessive.

6. Mr.M.P.Saravanan, learned counsel for the appellant/husband would only contend that the 1st respondent/wife being a working women, the Family Court ought not to have entertained the interim application for maintenance and prayed for allowing the appeal. To support his contention, he has relied upon the following decisions in C.M.A.Nos.1354 and 1355 of 2018.



C.M.A.No. 608 of 2023

7. We have heard the learned counsel for the appellant and perused the materials placed on record.

8. Admittedly, in this case, the appellant/husband is employed and drawing salary for a sum of Rs.92,000/- (Rupees Ninety Two Thousand only) per month and no iota of evidence to show that the 1st respondent/wife is employed and earning a sum of Rs.45,000/- (Rupees Forty five thousand only) per month or any other source of income to maintain herself and her son and also to meet the litigation expenses.

9. Section 24 of the Hindu Marriage Act empowers the Court in any proceedings under the Act, if it appears to the Court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of any one of them, order the other party to pay to the petitioner the expenses of the proceeding and monthly maintenance as may seem to be reasonable during the proceeding, having regard to the income of both the applicant and the respondent. The object of granting pendente lite maintenance to the wife is only to add financial support for her livelihood or her survival, to



C.M.A.No. 608 of 2023

meet her basic needs, till the disposal of the matrimonial proceeding. In the present case, there is no proof that the first respondent/wife is employed. But in the case referred by the learned counsel for the appellant, there was sufficient proof that the 1st respondent/wife was employed and was earning. Therefore, the said decided case do not apply to the facts in the present case.

10. Hence, considering the above facts, the Family Court has awarded a sum of Rs.15,000/- (Rupees Fifteen thousand only) for the 1st respondent/wife and Rs.5,000/- (Rupees Five thousand only) for the 2nd respondent/child as monthly maintenance which is in our considered opinion is quite acceptable to support their livelihood.

11. Hence, we find no merits in this appeal and accordingly, this Civil Miscellaneous Appeal is dismissed. No costs.

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

09.03.2023

vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



WEB COPY



C.M.A.No. 608 of 2023



WEB COPY



C.M.A.No. 608 of 2023

D.KRISHNAKUMAR, J.
and

K.GOVINDARAJAN THILAKAVADI, J.

vsn

C.M.A.No. 608 of 2023

09.03.2023