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C.M.A.No.1264 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE D.BHARATHACHAKRAVARTHY**

**C.M.A.No.1264 of 2023
and
C.M.P.No.12408 of 2023**

V.V.T.Niraiyagham

... Appellant

Vs.

A.Padmavathi

...Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 to set aside the fair and decreetal order dated 07.12.2022 made in I.A.No.1 of 2021 in HMOP.No.3071 of 2021 on the file of II Additional Principal Family Court at Chennai

For Appellant : Mr.B.Janakiram

For Respondent : Mr.A.D.Janarthanan

JUDGMENT

This appeal is filed against the interim order, granting interim maintenance to the respondent to the tune of Rs.15,000/- per month.



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2. Heard Mr.B.Janakriam, learned counsel for the appellant.

3. Learned counsel for the appellant would submit that the respondent/ wife could not have married the appellant because she did not even get the divorce of her previous marriage. In that view of the matter, when the marriage itself is *per se* illegal, directing the appellant/husband to pay maintenance would render his very case itself *otiose*. Therefore, the order of interim maintenance has to be set aside.

4. We are unable to accept the said submission. When the petitioner has come up with a prayer of divorce and admittedly, as on date, he claims the respondent to be his wife and prays for divorce, whatever may the grounds for the divorce, as far as interim maintenance is concerned, it is only the question of sustenance which is the relevant factor that can be taken into account and accordingly, no exception whatsoever can be taken for the trial court to have ordered a sum of Rs.15,000/- as monthly maintenance. However, we are inclined to direct the trial Court to take up both the H.M.O.P.Nos.3071 & 4585 of 2021 for trial and dispose of the same as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order.



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5. In the result, the Civil Miscellaneous Appeal is dismissed with a request to the Trial Court to take up H.M.O.P.Nos.3071 & 4585 of 2021 for trial and dispose of the same as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
vsi

(J.N.B,J.) (D.B.C, J.)
22.06.2023

To
The II Additional Principal Family Court
at Chennai



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J. NISHA BANU, J.
and
D.BHARATHA CHAKRAVARTHY, J.

vsi

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