



WEB COPY



CMA No.805 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

CMA No.805 of 2023 and

CMP No.7422 of 2023

S.Murali Sundar

... Appellant

Vs.

M.Jayanthi

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 to set aside the fair and decreetal order passed in I.A.No. 1 of 2021 in HMOP No.5239 of 2019 dated 15.12.2022 on the file of the Principal Family Court, Chennai.

For Appellant : Mr. Deepanuday

J U D G M E N T

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

WEB COPY Challenging the order dated 15.12.2022 in I.A.No.1 of 2021 in HMOP No.5239 of 2019 on file of the Principal Family Court, Chennai, this Criminal Miscellaneous Appeal has been filed.

2. The appellant married the respondent on 09.06.2016 and in their wedlock, one female child born. After birth of child, the respondent picked up quarrel with the appellant frequently and also harassed the appellant and his parents. Hence, the appellant filed a divorce petition in HMOP No.59 of 2019 before the Principal Family Court, Chennai seeking divorce against the respondent, in which, the respondent filed an application I.A.No.1 of 2021 seeking interim maintenance at Rs.30,000/- per month. After hearing both sides and perusing the documents, the Family Court directed the appellant to pay interim maintenance at Rs.10,000/- per month to the respondent and also to pay Rs.10,000/- towards litigation expenses. Challenging the above order, the appellant preferred the present civil miscellaneous appeal.

3. The learned counsel for the appellant submitted that the respondent



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is working in a private company and is earning a sum of Rs.35,000/- per month and she is self sufficient to maintain herself. He further submitted that, the appellant was working as Credit Manager in a private company and was earning a sum of Rs.45,000/- per month, however, he was terminated from the company from 08.08.2022 and the termination order was also placed before the Family Court. He also submitted that now, the appellant is jobless and is searching for job. Therefore, the appellant is not in a position to pay the interim maintenance of Rs.10,000/- to the respondent and hence, the impugned order may be set aside.

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

5. It is an admitted fact that the divorce petition filed by the appellant is pending before the Family Court and on the application in I.A.1/2021 in HMOP No.5239/2019 filed by the wife/ respondent, as an interim measure, the Family Court passed an order, directing the appellant to pay interim maintenance at Rs.10,000/- to the respondent, till the disposal of the divorce



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petition and also to pay Rs.10,000/- towards litigation expenses. Aggrieved by the same, the present appeal has been filed.

6. Before Family Court, it is the contention of the respondent/wife that the appellant/husband is working in a private company and is earning a sum of Rs.50,000/-. Therefore, to maintain herself and her child, the respondent sought interim maintenance at Rs.35,000/- per month. In the above petition, the appellant filed counter affidavit, wherein, he himself admitted that he is earning a sum of Rs.45,000/- per month. However, it was contended by him that he is paying a sum of Rs.32,000/- towards the loans availed by him for construction of house and for his brother's marriage. The further contention of the appellant is that, the respondent/wife is working in a private company and is earning a sum of Rs.35,000/- per month and hence, she is self sufficient to maintain herself. But, the above contentions of the appellant is not substantiated by any material evidence before the Family Court.

7. The main contention of the appellant is that, he was terminated



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from the company and now he is job less and hence, he is not able to pay the maintenance. He also filed the termination order before the family Court.

The recitals of the order passed by the family Court, shows that as per Ex.P1 and Ex.P2, the female child born to the appellant and the respondent is a school going child. Therefore, her educational expenses has to be met out by her parents. Though the appellant contended that he is a jobless, it is the bounden duty to him to take care of his child and to give education to her. Therefore, as a part of parents, the appellant has to pay minimum amount of Rs.10,000/- to his child towards maintenance, which is not excessive. Therefore, considering at any angle, we are of the view that the order of interim maintenance with litigation expenses passed by the learned Principal Judge, Family Court is a just and reasonable one and it does not warrant any interference by this Court.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the order passed by the learned Principal Judge, Family Court, Chennai. Consequently, connected miscellaneous petition is closed. The appellant is directed to pay a sum of Rs.10,000/- per month as interim



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maintenance to the respondent/wife on the 10th day of every succeeding English Calender Month till the disposal of HMOP NO.5239 of 2019. The appellant/husband shall pay the arrears of interim maintenance calculated at Rs.10,000/- from the date of filing application in I.A.No.1 of 2021 till the date of payment, and also to pay a sum of Rs.10,000/- towards litigation expenses, within one month from the date of receipt of a copy of this order.

(D.K.K.J.)

(K.G.T.J.)

03.04.2023

Index : Yes/No
Internet : Yes/No
mst

To

The Principal Judge,
Family Court, Chennai.



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and

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