



C.M.A.No.1038 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

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

**C.M.A.No.1038 of 2022
and
C.M.P.No.7659 of 2022**

Anand ... Appellant

Vs.

A.Sivagami ... Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act against the order dated 20.01.2022 made in I.A.No.2 of 2021 in H.M.O.P.No.24 of 2017 on the file of Additional principal Family Curt, Coimbatore.

For Appellant : Mr.T.Gopinath

For Respondent : Ms.G.Keerthana

J U D G M E N T



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This Civil Miscellaneous Appeal is directed against the order of the Additional Principal Family Court, Coimbatore, dated 20.01.2022 in I.A.No.2 of 2021 in H.M.O.P.No.24 of 2017, in and by which, the prayer of the interim maintenance of the respondent/wife was partly allowed and the appellant was directed to pay a sum of Rs.7,500/- per month and litigation expenses of Rs.10,000/-.

2. Heard, Mr.T.Gobinath, learned counsel for the appellant and Ms.G.Keerthana, learned counsel for the respondent.

3. Learned counsel for the appellant would submit that in this case the respondent/wife was set exparte and after the decree was passed, the appellant got remarried and he has got three children out of the wedlock. Therefore, with a meagre income as a commission agent, he finds it difficult to maintain the second family and that a sum of Rs.7,500/- is on the higher side and therefore, would pray that the said sum may be reduced.

4. Per contra, the learned counsel for the respondent would submit that when the appellant is working as a commission agent and is earning adequately, only a sum of Rs.7,500/- was ordered which itself is on the lower side.



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5. We have considered the submission made on either side and perused the material records of the case.

6. We find that when the marital relationship is admitted and the respondent/wife is unable to maintain herself and when the exparte order is set aside, only a sum Rs.7,500/- per month was ordered as maintenance. This cannot be a case for further reduction or interference. However, considering the facts and circumstances, this Civil Miscellaneous Appeal is dismissed, with a direction to the trial Court to take up the main H.M.O.P.No.24 of 2017 for disposal 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. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(J.N.B,J.) (D.B.C, J.)
26.06.2023

Index : Yes / No
Internet : Yes
vsi

To

The Family Court,
Erode.



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