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C.M.A.No.1712 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2023

CORAM:

THE HONOURABLE MR JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS JUSTICE R.KALAIMATHI

C.M.A.No.1712 of 2023

and

C.M.P.No.16782 of 2023

P.Gopalakrishnan

...Appellant

Vs.

1.G.Jayasudha

2.G.Krithika

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 19(1) of the Family Courts Act, 1984, against the order dated 13.07.2022 passed by the II-Additional Family Court, Chennai in I.A.No.2 of 2021 in HMOP.No.4228 of 2017 on the file of the II-Additional Family Court, Chennai.

For Appellant : Mr.K.Karthick Jyothi

For Respondents : Mr.K.A.Mariappan
for Mr.C.N.Ehoma Saviour for R1



C.M.A.No.1712 of 2023

J U D G M E N T

WEB COPY (Judgment of the Court was made by R.SUBRAMANIAN, J.)

The order under challenge is an order, granting interim maintenance to the wife and the daughter of the appellant at the rate of Rs.10,000/- each per month under Section 24 & 26 of the Hindu Marriage Act, pending the proceeding for divorce.

2.The learned counsel for the appellant would contend that the quantum of maintenance granted is on the higher side, since he is also maintaining his other siblings, who are dependent on him. He would also point out that the 2nd petitioner before the Family Court / 2nd respondent herein has attained majority even on 12.11.2021 and therefore, she would not be entitled to maintenance after the said date either under Section 24 or Section 26 of the Hindu Marriage Act. We have heard the learned counsel for the appellant.

3.We are unable to accept his contention that the quantum of maintenance granted is on the higher side. Admittedly, the appellant is



C.M.A.No.1712 of 2023

working as Electrical Fault Attender in Indian Railways on a monthly salary of Rs.60,000/-. The Family Court has awarded only a 1/3rd of his salary as maintenance. We are therefore, unable to accept that the quantum of maintenance awarded is on the higher side.

4.As regards the second contention, we find some force in it. Interim maintenance, pending proceeding for divorce can be granted under Section 24 of the Hindu Marriage Act to the wife and under Section 26 of the Hindu Marriage Act to the minor children. The birth certificate of the 2nd respondent has been placed before us. As per the same, her date of birth is 12.11.2003 therefore, she attained majority on 12.11.2021. However, the appellant would be liable to pay maintenance to her daughter from the date of the petition namely, 06.04.2021, till the date she attained majority namely, 12.11.2021. The appellant will have 12 weeks time to pay the arrears from today. The appellant would be liable to pay only Rs.10,000/- to the wife and the same shall be paid on or before 5th of every English Calendar month.



C.M.A.No.1712 of 2023

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5.This Civil Miscellaneous Appeal is disposed of with the above modification. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M.,J.) (R.K.M.,J.)
31.07.2023

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C.M.A.No.1712 of 2023

To:-

The II-Additional Principal Judge,
Family Court, Chennai.



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C.M.A.No.1712 of 2023

R.SUBRAMANIAN, J.
and
R.KALAIMATHI, J.

KKN

C.M.A.No.1712 of 2023
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