



C.M.A.No.2669 of 2019
and
C.R.P.No.2085 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.2669 of 2019 & C.R.P.No.2085 of 2019

and C.M.P.Nos.13225 of 2019, 5955 of 2020, 13476 of 2019

C.M.A.No.2669 of 2019:

M.Pradeep

... Appellant

VS

B.Mohanasai

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act, to set aside the order and decretal order passed by the learned Principal Judge, Family Court, Chennai, in I.A.No.5899 of 2018 in O.P.No.217 of 2014 dated 08.04.2019.

For Appellant

: Ms.K.Shanthi

For Respondent

: Dr.Father Xavier Arulraj
Senior Counsel
for Ms.Arul Mary



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C.R.P.No.2085 of 2019:

M.Pradeep

... Petitioner

VS

B.Mohanasai

... Respondent

Prayer: Civil Revision Petition filed under Section 151 r/w Article 227 of Constitution of India, against the order passed by the learned Principal Judge, Family Court, Chennai, in I.A.No.1 of 2019 in O.P.No.217 of 2014 dated 08.04.2019.

For Petitioner : Ms.K.Shanthi

For Respondent : Dr.Father Xavier Arulraj
Senior Counsel
for Ms.Arul Mary

J U D G M E N T

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

Civil Miscellaneous Appeal has been filed to set aside the decreetal order passed by the learned Principal Judge, Family Court, Chennai, in I.A.No.5899 of 2018 in H.M.O.P.No.217 of 2014 dated 08.04.2019.



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2. Civil Revision Petition has been filed against the order passed by the learned Principal Judge, Family Court, Chennai, in I.A.No.1 of 2019 in H.M.O.P.No.217 of 2014 dated 08.04.2019.

3. The Appellant / petitioner has filed H.M.O.P.No.217 of 2014 for divorce on the ground of cruelty by dissolving the marriage between the petitioner and the respondent solemnized on 04.03.2010.

4. The Appellant filed an I.A.No.1 of 2019 before the Family Court, Chennai, for appointing him as the natural guardian of his minor child by directing the respondent to handover the physical custody of minor child to the petitioner. The respondent filed an I.A.No.5899 of 2018 before the Family Court, Chennai, seeking maintenance of Rs.25,000/- per month for the minor child under Section 26 of Hindu Marriage Act. The Family Court, by an order dated 08.04.2019, passed a common order in I.A.No.5899 of 2018 and I.A.No.1 of 2019 by directing the appellant / petitioner to pay a sum of Rs.12,000/- per month as maintenance to the respondent with effect



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from November 2018 till further orders and I.A.No.1 of 2019 was dismissed by the Court below. The Trial Court further granted the relief of visitation rights to the appellant to visit his minor child on second and fourth Saturdays on every month from 11.00 a.m., to 1.00 p.m., at the Children Centre attached with the Court below. Challenging the orders passed in I.A.No.5899 of 2018 and I.A.No.1 of 2019, the present civil miscellaneous appeal as well as the civil revision petition have been filed.

5. In both the cases, the appellant / petitioner is the husband and the respondent is the wife. Pending appeal, the appellant has filed an undertaking affidavit on 30.09.2019 stating that he agreed to pay a sum of Rs.15,00,000/- to the respondent towards permanent alimony for divorce and he has paid a sum of Rs.1,00,000/- to the respondent vide Cheque No.000144 dated 26.08.2019 drawn on HDFC Bank, Anna Nagar Branch, Chennai, and the same was informed before this Court on 09.09.2019 and sought time to pay the balance amount of Rs.14,00,000/-. Accordingly, this Court has granted five months time to pay the said balance amount on or



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before 28.02.2020 and the appellant has undertaken to settle the entire sum within the specified period.

6. Today, when the matter is taken up for hearing for final disposal, it is stated that the said undertaking submitted by the appellant has not been complied with and therefore, the appellant also agreed that he has not paid the said amount as per the joint compromise entered between the parties.

7. On going through the facts of the present case, the Court below passed an order by directing the appellant to pay the entire amount towards maintenance to the respondent. Taking into consideration the appellant was working in IDC Technology and drawing a salary of Rs.60,000/- per month, the Court below has directed the appellant to pay a sum of Rs.12,000/- per month as an interim maintenance for the minor child from the date of the petition and to pay the said amount on or before 7th day of every English Calender month directly to the respondent.



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8. Now, the child is aged about 12 years, the said order was passed in the year 2019 and now it requires further maintenance of the child. Therefore, it is for the appellant, who being the father, has a duty to take care of the child for his education and other expenses. Thus, considering from any angle, we are not inclined to interfere with the order passed by the Family Court in I.A.No.5899 of 2018 directing he appellant / husband to pay a sum of Rs.12,000/- per month as interim maintenance from the date of petition.

9. Insofar as the I.A.No.1 of 2019 filed by the appellant / husband to appoint him as natural guardian of his minor child is concerned, a reasoned order has been passed by the Family Court that the appellant is permitted to have a visitation right from 11.00 a.m., to 01.00 p.m., on every second and fourth Saturdays on every month. Therefore, such right has been given to the appellant to have access to his child. In case, if the appellant is unable to visit his minor child on those days, he shall intimate the respondent directly or through the counsel concerned so that unnecessary travel of the child



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could be avoided. In case, if the appellant is not permitted to visit his child owing to any unforeseen circumstances, liberty is granted to the appellant to move the Family Court, Chennai.

10. Therefore, we are of the view that the said directions of the Court below does not warrant any interference by this Court. Therefore, we come to a conclusion that no infirmity or illegality in the order passed by the Court below in I.A.Nos.5899 of 2018 and 1 of 2019. Therefore we are inclined to confirm the order passed by the Court below.

11. Accordingly, the civil miscellaneous appeal as well as the civil revision petition is dismissed with the following directions.

(i) The common order dated 08.04.2019 made in I.A.No.5899 of 2018 and I.A.No.1 of 2019 on the file of the Family Court, Chennai, is hereby confirmed.



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(ii) The appellant is directed to settle the entire arrear amount to the respondent within a period of eight weeks from the date of receipt of a copy of this order, as directed by the Court below in I.A.No.5899 of 2018.

(iii) The appellant is directed to pay a sum of Rs.12,000/- per month as maintenance to the respondent either directly or through Bank account on or before 10th day of every succeeding English Calender month, failing which, it is open to the respondent to proceed in accordance with law, for recovery of said amount. Consequently, connected miscellaneous petitions are closed.

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

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Index : Yes/No
Neutral Citation : Yes/No
Speaking / Non- Speaking order

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D.KRISHNAKUMAR, J.
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To

The Family Court,
Chennai.

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