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CMA.No. 1911 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2023

Coram

**THE HON'BLE MR JUSTICE D. KRISHNAKUMAR
AND
THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI**

CMA.No.1911 of 2022

Govindharaj @ Anandharaj

..Appellant

Vs

Priya

..Respondent

Prayer : This Civil Miscellaneous Appeal is filed under Section 19 of Family Court Act 1984 to set aside the Decree and Judgment dated 22.10.2021 made in I.A.No.193/2019 in HMOP No. 21/2019 on the file of Family Court, Villupuram.

For Appellant : Mr.A.Gowthaman

For respondents : Mr.C.Munusamy

JUDGMENT

[Judgement of the Court was made by *D.KRISHNAKUMAR,J.*]

Challenging the decree and judgment dated 22.10.2021 made in I.A.No.193/2019 in HMOP No. 21/2019 by the Judge, Family Court, Villupuram, the present Civil Miscellaneous Appeal is filed.



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2. Brief facts of the case is that that the marriage between the appellant/husband and the respondent/wife was solemnized on 19.01.2018. The respondent has filed a petition in HMOP.No.21 of 2019 before the Family Court, Villupuram for divorce. Pending divorce petition, the respondent has also filed an application in I.A.No. 193 of 2019 claiming interim maintenance of Rs.50,000/- per month and also Rs.50,000/- towards litigation expenses from the appellant herein on the ground that the appellant herein is running the travels in the name and style of 'Vijaya Travels' and owning four bus and thereby earning Rs.1,00,000/- per month. Further the appellant is having house at Pondicherry and owning 10 acre cultivable land at Koliyanur and thereby earning Rs.2,00,000/- per year and receiving Rs.30,000/- rent from the house at Krishna Nagar, Pondicherry.

3. The appellant herein has filed counter affidavit before the trial Court denying the aforesaid allegations made by the petitioner/respondent herein. The trial Court after considering the submissions made by both sides, has directed the appellant herein to pay Rs.25000/- towards interim maintenance to the petitioner/respondent herein and also directed to pay Rs.20,000/-



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towards one time payment for litigation expenses. Challenging the same, the husband/appellant herein has filed the present appeal.

4. According to the learned counsel for the appellant, the appellant is neither a proprietor nor general manager of the Vijaya Travels, he is only an employer in the said Vijaya Travels, which is owned by his brother and he is receiving monthly salary from aforesaid Vijaya Travels. The trial Court without considering the said aspect, has directed to pay a huge amount of Rs.25,000/- as interim maintenance as well a Rs.20,000/- towards litigation expenses. Therefore the said order of the trial Court is liable to be set aside.

5. Heard both sides and perused the documents available on record.

6. On perusal of records, it is seen that the petitioner/respondent herein has specifically mentioned the monthly income of the appellant in the affidavit before the trial Court and she has also marked the marriage certificate as Ex.P2 to prove the sources of the income of the appellant herein, in which it has been the appellant as owner of Vijaya Travels. Even though the appellant



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denied the said statement made by the respondent in the counter affidavit, he had not produced any documents before the trial Court or before this Court to disprove the said statement made by the respondent.

7. It is also represented before this Court the in the said HMOP filed by the respondent herein/wife, the Family Court has granted divorce on 27.06.2022.

8. Taking into consideration the vital fact that the appellant, although denied the submissions made by the learned counsel for the respondent with respect to his income sources, he did not produce any documents either before the Family Court or before this Court to disprove it. Further the Family Court had granted divorce on 27.06.2022 in the HMOP filed by the respondent, therefore, We inclined to direct the appellant to pay a sum of Rs.20,000/- towards interim maintenance from the date of filing of HMOP i.e 26.06.2019 till disposal of said HMOP i.e on 27.06.2022 along with arrears to the respondent, within a period of eight weeks from the date of receipt of a copy of this Order. The appellant shall also pay a sum of Rs.20,000/- towards litigation expenses.



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9. In conclusion, the Civil Miscellaneous Appeal is partly allowed. No costs.

[D.K.K.,J.]

[K.G.T.,J.]

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Speaking/Non Speaking Judgment
Index: Yes/No
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To

1. The Judge,
Family Court,
Villupuram.
2. The Section Officer,
V.R.Section,
High Court, Madras.



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**D. KRISHNAKUMAR, J.
AND
K. GOVINDARAJAN THILAKAVADI, J**

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