



WEB COPY



CRP.No.2737 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.2737 of 2019 and
CMP.Nos.17988 & 20197 of 2019

S.Karthikeyan

... Petitioner

Vs.

K.Sailaja

... Respondent

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the impugned order dated 25.02.2019 passed by the learned V Additional Principal Family Court, Chennai in Memo in EP.No.76 of 2018 in IA.No.1189 of 2012 in HMOP.No.2754 of 2011 as arbitrary, illegal and unjust in law.

For Petitioner : Mr.A.Manojkumar

For Respondent : No appearance

ORDER

This civil revision petition has been filed to set aside the impugned order dated 25.02.2019 passed by the learned V Additional Principal Family Court, Chennai in Memo in EP.No.76 of 2018 in IA.No.1189 of 2012 in HMOP.No.2754 of 2011, thereby directed the petitioner to pay 75% of the arrears of the maintenance amount.



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2. The petitioner is the husband and the respondent is the wife. They got married and gave birth to two children. Thereafter, due to misunderstanding between them, they got separated. Therefore, the petitioner filed petition for divorce in HMOP.No.2754 of 2011. While pending the divorce petition, the respondent filed IA.No.1189 of 2012 for interim maintenance. The trial court ordered interim maintenance of Rs.30,000/- in favour of the respondent and two children. However, the petitioner did not comply with the said order and challenged the same before this Court in CRP.No.4907 of 2012. This Court dismissed the civil revision petition and confirmed the interim maintenance by order dated 07.12.2017. Even then, the petitioner did not comply with the order and as such, the respondent filed execution petition before the Execution Court and the petitioner also filed calculation memo stating that he is in arrear of only Rs.2,00,000/-. However, the Execution Court directed the petitioner to pay 75% of the arrears of maintenance amount.

3. Now the respondent and the two children are under the shelter of the petitioner herein. It seems that they joined together and are living happily. That apart, the respondent also filed maintenance case in MC.No.132 of 2012



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on the file of the V Additional Family Court, Chennai and the same was also dismissed for default. In fact, the divorce petition filed by the petitioner was also dismissed for default.

4. In view of the above, the order passed by the Execution Court is liable to be set aside. Accordingly, the order dated 25.02.2019 passed by the learned V Additional Principal Family Court, Chennai in Memo in EP.No.76 of 2018 in IA.No.1189 of 2012 in HMOP.No.2754 of 2011 is set aside and this civil revision petition is allowed. It is made clear that if the divorce petition is restored on file, the petitioner is liable to pay the interim maintenance as awarded by the trial court. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

22.02.2023

Index : Yes/No
Internet : Yes/No
Speaking order/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

The V Additional Principal Family Judge,
Chennai

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