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CRP.No. 2871 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V. BHAVANI SUBBAROYAN**

CRP. No. 2871 of 2023

and

CMP. No. 17774 of 2023

M. Kandasamy

...Petitioner

Versus

Muthulakshmi

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India prays to set aside the fair and decreetal order dated 17.03.2023 passed in IA.No.16 of 2022 in HMOP.No. 95 of 2019 on the file of Additional Sub Court, Kallakurichi.

For Petitioner : Mr.D. Senthilkumar

ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and decreetal order dated 17.03.2023 passed in IA.No.16 of 2022 in



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HMOP.No. 95 of 2019 on the file of Additional Sub Court, Kallakurichi.

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2. The brief facts of the case are that the petitioner/husband has filed HMOP.No. 95 of 2019 before the learned Subordinate Judge, Kallakurichi, against the respondent/wife herein. The marriage was solemnized between the petitioner and the respondent at Samayapuram Mariyamman Koil in the presence of their parents. Out of the wedlock, a male child, by name Anandakumar was born to them on 20.09.2004. While pending the petition, the respondent/wife has filed I.A.No. 16 of 2022 in HMOP.No. 95 of 2019 under Section 24 of the Hindu Marriage Act, seeking to interim maintenance of Rs.25,000/- per month. After perusing the records, the Court below allowed the petition directing the petitioner/husband to pay Rs.6,000/-p.m. As interim maintenance. Challenging the said order, the petitioner/husband has come forward with the present Civil Revision Petition.

3.

3. According to the petitioner, during the first week of January, 2005, the respondent/wife left from the marital home to her mother's



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house even without informing the petitioner and the petitioner took several steps, including Panchayats in the presence of well-wishers for all these years, to bring back the respondent to the marital home, but all these efforts are gone in vain. Thus the respondent deserted the petitioner from the first week of January, 2005, separately residing without any sufficient reason and she refused to live with her husband. Therefore, the respondent/wife is not entitled to get any maintenance from the petitioner.

4. On a perusal of the records, it reveals that the petitioner has filed HMOP seeking to grant divorce on the ground of desertion under Section 13(1)(i-b) of the Hindu Marriage Act. The respondent has contested the petition by filing counter affidavit denying all the averments made in the petition. Subsequently, the petitioner was examined as PW1 and Exs.P1 to P4 have been marked on the side of the petitioner.

5. On a further perusal of the impugned order dated 17.03.2023, it reveals that the respondent/wife and her son were suffering from without any sources of income. While that being the case, no evidence was produced by the petitioner that the respondent/wife was earning a sum of



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Rs.50,000/- per month at a private company in Chennai is not true. It is not true that the petitioner was earning a sum of Rs.200/- as daily wage earner. After scrutinizing all the records, the trial Court has rightly allowed the application by order dated 17.03.2023. Hence, there is no illegality or irregularity in the impugned order passed by the Trial Court and also this Court is not inclined to allow the above Revision.

6. Accordingly, the Civil Revision Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

18.08.2023

Speaking order : Yes/No
Neutral citation : Yes/No
MSM

To

1. The Additional Sub Court, Kallakurichi.
2. The Section Officer, V.R. Section, High Court, Madras.



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V.BHAVANI SUBBAROYAN, J.

msm

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