



C.R.P.No. 4528 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4528 of 2023

and

C.M.P.No. 27108 of 2023

Vinoth Kumar

.. Petitioner

Vs

Vinitha

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 26.09.2019 in I.A.No.16 of 2019 in HMOP.No.59 of 2018 on the file of the learned II Additional Subordinate Court, Villupuram.

For Petitioner : Ms. R. Radha Pandian

ORDER

This Civil Revision Petition is filed challenging the order passed in I.A.No.16 of 2019 in H.M.O.P.No.59 of 2018, the husband has preferred this revision.



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2. Before the trial Court, the husband / petitioner herein filed a petition in H.M.O.P.No.59 of 2018 for divorce but the same was dismissed due to non payment of the maintenance amount which was awarded in interim maintenance application in I.A.No.16 of 2019. Infact, the order passed in interim maintenance application was ex parte since he was not appear on that day. Now to set aside the interim maintenance order, the husband has preferred the revision.

3. The learned counsel for the petitioner / husband submits that the wife / respondent herein is also having source of income but without giving proper opportunity, the trial Court erroneously directed the husband to pay Rs.25,000/- per month as interim maintenance, the same is liable to be set aside, for the reason that the wife is also having source of income.

4. Admittedly, EP was filed to recover the arrears of maintenance which comes around more than Rs.5 lakhs since HMOP was initiated by the revision petitioner was in the year 2018. Admittedly, the child is under the custody of the mother and as a father, he is duty bound to



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maintain the child. As she is living with the child without proper income and on considering the arrears of maintenance, the revision petitioner / husband is directed to pay Rs.3 lakhs of arrears within four weeks from the date of receipt of copy of this order. On such deposit of Rs.3 lakhs before the H.M.O.P.59 of 2018, the wife is permitted to withdraw the amount by giving undertaking affidavit. On such payment, restore the H.M.O.P.No.59 of 2018 on considering the I.A., filed by the husband / revision petitioner, within two weeks from the deposit of the amount.

5. In the result, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

18.12.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

To

The II Additional Subordinate Court, Villupuram.



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T.V.THAMILSELVI, J.

AT

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