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CMA.No.248 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2023

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE TMT. JUSTICE K.GOVINDARAJAN THILAKAVADI

CMA.No.248 of 2017
and CMP.No.1653 of 2017

N.Pushpakaran

.. Appellant

vs.

P.Dhanalakshmi

.. Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 against the fair and final order dated 20.01.2016 made in I.A.No.650 of 2014 in O.P.No.4254 of 2010 on the file of the Principal Judge, Family Court, Chennai.

For Appellant : Mr.R.Krishnaswamy
For Respondent : Mr.M.Ganesan

JUDGMENT

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

Challenging the interim order of maintenance passed by the learned Principal Judge, Family Court, Chennai, directing the appellant/husband to pay a sum of Rs.9,000/- per month to the respondent/wife, as interim maintenance from the date of the order along with litigation expenses of



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Rs.15,000/- to the respondent/wife, the appellant has filed this civil miscellaneous appeal.

2. According to the appellant, he was working as Labour in Eveready Industrial India Company, Tolgate, Chennai and he was drawing a gross salary of Rs.16,664/- per month and his take home salary was Rs.10,750/- per month and with that meager income, he has to take care of his aged parents, widowed sister and her two children and unmarried sister and he has to pay rent of Rs.7,000/- per month and he is finding it extremely difficult to eke out his livelihood and therefore, he finds it difficult to comply with the order of the Court below. The appellant would further contend that the company, in which he worked was closed and he is struggling for his livelihood and the Court below has lost its sight to consider the grounds raised by the appellant and therefore, he seeks for appropriate orders.

3. The learned counsel for the respondent/wife reputed the aforesaid contentions by stating that the interim order of maintenance awarded by the Court below is just and fair and the said order has been passed after careful consideration of the submission made by both the parties and therefore, the order of the Court below does not warrant any interference.



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5. The grievance of the appellant/husband is that he was only a lower grade Labour in Eveready Company and was drawing net salary of Rs.10,750/- per month at the time of filing the interim application, out of which, he was paying Rs.7,000/- per month towards rent and he has to maintain his aged parents, widowed sister with two daughters and an unmarried sister and at present, the said company was also closed and therefore, he finds it difficult to comply with the order of the Court below. The respondent/wife has not produced any document to substantiate her stand that the appellant is earning Rs.25,000/- per month. Further, a joint memo was filed before this Court wherein the appellant has originally agreed to pay interim maintenance of Rs.7,500/- per month and thereafter, he has agreed to pay a sum of Rs.6,000/- per month. But so far, the appellant/husband has not paid the amount to the respondent/wife. In the light of the aforesaid facts and submissions made, this Court is of the view that the order of the Court below requires modification.



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6. Taking into consideration the income of the appellant and the submission made by the appellant, we are of the view that the order of the Court below requires modification. Hence, the appellant/husband shall pay a sum of Rs.7,000/- per month as interim maintenance to the respondent/wife, from the date of the order passed in I.A.No.650 of 2014 i.e., from 20.01.2016 till April, 2023 and shall also pay a sum of Rs.15,000/- towards litigation expenses to the respondent/wife, within a period of eight weeks from the date of receipt of a copy of this judgment. The appellant/husband shall continue to pay the interim maintenance of Rs.7,000/- every month on or before 10th day of every English calendar month commencing from May 2023. It is also made clear that on payment of the aforesaid amounts by the appellant, the Principal Judge, Family Court, Chennai shall proceed with the trial and dispose of the OP.No.4254 of 2010, pending on its file at the earliest.

7. In view of the above, the order passed by the learned Principal Judge, Family Court, Chennai dated 20.01.2016 made in I.A.No.650 of 2014 in OP.No.4254 of 2010 is modified with the above directions. The Civil



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Miscellaneous Appeal stands partly allowed. No costs. Consequently,

connected miscellaneous petition is closed.

[D.K.K., J.] [K.G.T., J.]
11.04.2023

Index : Yes / No

Internet : Yes / No

Jvm

To
The Principal Judge,
Family Court, Chennai.



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

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