



C.R.P(MD).No.283of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.283 of 2023

and

C.M.P(MD).No.1349 of 2023

S.Ramachandran

... Petitioner/Petitioner/Respondent

Vs.

1.S.Irulayee

2.Minor Chithan

3.Minor.R.Ammu

... Respondents/Respondents/
Petitioners

(Minor Respondents 2 & 3 are represented through their mother and natural guardian/1st Respondent)

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order passed in Cr.M.P.No.408 of 2022 and Cr.MP.No.409 of 2022 in MC.No.67 of 2021 on the file of the Family Court, Madurai dated 16.12.2022 and set aside the same as illegal.

For petitioner : Mr.S.M.Kadhar

For Respondents : Mr.S.Pandiyaraj



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ORDER

WEB COPY This Civil Revision Petition has been filed by the petitioner to set aside the fair and decreetal order passed in Cr.M.P.No.408 of 2022 and Cr.MP.No. 409 of 2022 in MC.No.67 of 2021 on the file of the Family Court, Madurai dated 16.12.2022 .

2.The petitioner is the respondent in M.C.No.67 of 2021 filed by the respondents herein for interim maintenance under Section 125 of CR.P.C. By the order dated 19.01.2021, the Family Court, Madurai, directed the petitioner herein to pay a sum of Rs.25,000/- to all the respondents herein.

The relevant portion of the order reads as under:-

“In the result, this petition is allowed and the respondent is ordered to pay a sum of Rs.7,500 per month each to the 2nd and 3rd petitioners and Rs.10,000/- per month to the 1st petitioner (Totally Rs.25,000/-) from the date of this petition and has to be paid on or before 10th of every English calendar month.”

3.Since the amount was not paid by the petitioner, the respondent also filed Cr.MP.No.323 of 2022 to recover the arrears of maintenance amount from the petitioner.



4.Under these circumstances, the petitioner has filed Crl.MP.Nos.408 and 409 of 2022 before the Family Court, Madurai to condone the delay of 198 days in filing the petition to restore MC.No.67 of 202 and to set aside the ex-parte decree passed in M.C.No.67 of 2021. The Family Court, Madurai, has entertained the said petitions by directing the petitioner to pay a sum of Rs.1,50,000/- on or before 25.01.2023. Aggrieved by the same, the petitioner has filed the present Civil Revision Petition.

5.The specific case of the petitioner is that the Family Court, Madurai has come to the wrong conclusion that the petitioner has sufficient means to pay the aforesaid arrears of interim maintenance amount of Rs.1,50,000/-. It is submitted that the Family Court, Madurai ought to have considered the fact that the petitioner was unaware of the proceedings before the Family Court. It is submitted that the Court erred in fixing unanimous condition on the petitioner.

6.It is noticed that at the time of admission, this Court has taken note of the fact that the petitioner was a Lorry Driver and it will be difficult for him to mobilize the amount of Rs.1,50,000/-. Therefore, this Court has directed the petitioner to deposit only a sum of Rs.50,000/- on or before



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24.02.2023. The learned counsel for the petitioner has also filed a memo to that effect.

7.The learned counsel for the respondents submitted that the petitioner is not merely a lorry driver but also owner of the lorry and has sufficient means to pay the interim maintenance amount. It is further submitted that these applications was filed only after the respondent filed an application for interim maintenance. Hence, this Civil Revision Petition is liable to be dismissed.

8.It is submitted that even otherwise in the affidavit filed before the Family Court, Madurai, the petitioner has not sufficiently explained the delay. However, the Court was inclined to interfere with the order dated 16.12.2022. It is further submitted that the total arrears amount of interim maintenance is Rs.4,25,000/-.

9.I have considered the argument advanced by the learned counsel for the petitioner and the learned counsel for the respondents.



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10.It is not clear that on what basis the petitioner had earlier stated that the petitioner was a driver when it is a specific case of the respondent that the petitioner is a lorry owner.

11.Be that as it may, the conditional order that has been passed by the Family Court, Madurai on 16.12.2022 in CrI.MP.Nos.408 and 409 of 2022. In my view, the petitioner is duty bound to maintain his wife and children. There is no scope for interference.

12.Considering the above, I am inclined to dismiss the present Civil Revision Petition. It is accordingly dismissed. No costs. Consequently, the consequently, the connected miscellaneous petition is closed.

27.04.2023

NCC : Yes/No

Index : Yes/No

Internet:Yes/No

dss

To

1.The Family Court,
Madurai.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

dss

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