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C.M.A.(MD)Nos.222 and 223 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

**C.M.A.(MD)Nos.222 and 223 of 2023
and
C.M.P.(MD)Nos.2485 and 2486 of 2023**

Sathishkumar, S/o.Shanmugam ... Appellant in
both the C.M.As.

-VS-

Anbukkani, D/o.Chinnaiah @ Natarajan ... Respondent in
both the C.M.As.

PRAYER in both the C.M.As.:- Civil Miscellaneous Appeals filed under Section 19 of the Family Courts Act, to allow this Civil Miscellaneous Appeals, by setting aside the order of the learned Judge, Family Court, Sivagangai, Sivagangai District, in I.A.Nos.5 and 6 of 2022 in H.M.O.P.No.50 of 2021, dated 05.01.2023, respectively.

For Appellant : Mr.A.Prasanna Rajadurai
(in both the C.M.As.)

COMMON JUDGMENT

**[Judgment of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

Aggrieved by the allowing of the interim maintenance
petition filed by the respondent/wife and the dismissal of the petition



for interim maintenance filed by the appellant/husband, these appeals have been filed by the appellant/husband.

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2. Learned counsel for the appellant would submit that the respondent/wife having received huge money from the appellant, has filed a petition for interim maintenance. Since the appellant lost his job having no income, he also filed a petition against the respondent seeking interim maintenance, but the Family Court without considering the case of the appellant in proper perspective, wrongly allowed the petition filed by the respondent and dismissed the petition filed by the appellant. Learned counsel further submitted that the respondent voluntarily went out of her matrimonial home and denied for living with the appellant and therefore, she is not entitled to maintenance. Thus, he pleaded, the impugned orders are liable to be quashed.

3. We have heard the learned counsel for the appellant and perused the materials available on record.

4. Perusal of the impugned orders passed by the learned Judge, Family Court, Sivagangai, shows that though the appellant claimed maintenance contending that since he lost his job, he has no



means to eke-out his livelihood and the respondent is having huge money received from the appellant, the respondent in his petition for interim maintenance has averred that the appellant is owning 10 acres of nanja land through which, he is deriving agricultural income and apart from that, the appellant is also owning two residential houses in his locality and one residential house at Karaikudi and he is receiving rental income from those properties. Having received those income, the appellant is not maintaining the respondent and his children, whereas, the respondent is receiving a meagre income by working in 100 days wage employment scheme and through that income, she is unable to maintain herself and two minor children for their studies and other expenses. The Family Court also found that though the appellant originally filed a petition for restitution of conjugal rights in 2001, he filed an amendment petition to amend the said petition for divorce and the said amendment petition was allowed on 12.10.2021 and only thereafter, the respondent filed petition for interim maintenance. The fact remains that the appellant was not willing to live with the respondent as on the date of filing of the petition for interim maintenance by the respondent and therefore, the Family Court rightly ordered for interim maintenance and dismissed the petition filed by the appellant.



5. Therefore, we are unable to find any merits in the contentions of the appellant. The Family Court has given a cogent and valid reason for ordering maintenance to the respondent and for dismissing the petition filed by the appellant.

6. Accordingly, both the Civil Miscellaneous Appeals are dismissed. No costs. Connected miscellaneous petitions are closed.

[T.R., A.C.J.] [D.K.K., J.]
03.03.2023

NCC : Yes / No
Index : Yes / No
Internet: Yes / No
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To

The Judge,
Family Court,
Sivagangai,
Sivagangai District.



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T.RAJA, A.C.J.
and
D.KRISHNAKUMAR, J.

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COMMON JUDGMENT MADE IN
C.M.A.(MD)Nos.222 and 223 of 2023
DATED : 03.03.2023