



C.R.P.(MD) No.1326 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P.(MD)No.1326 of 2023

and

C.M.P(MD)No.6631 of 2023

R.Balakrsihnan

... Petitioner

Vs.

1.Karpagam @ Kalpana

2.Minor.Hanistha

Rep by her Mother/Natural Guardian

-first Respondent

... Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 05.04.2022 made in I.A.No. 20 of 2019 in H.M.O.P.No.72 of 2019 on the file of the Principal Sub Court, Palani.

For Petitioner : Mr.G.K.Chitra Devi

For Respondents : Mr.L.Prabhu



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ORDER

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The above application is filed by the petitioner against the order in I.A.No.20 of 2019 in H.M.O.P.No.72 of 2019 on the file of the Principal Sub Court, Palani.

2. The above H.M.O.P.No.72 of 2019 was filed by the first respondent/wife for divorce. During the pendency of the above petition, the first respondent/ wife preferred an application in I.A.No.20 of 2013 for interim maintenance for her and her minor daughter. In the said petition, it is stated that the petitioner is drawing a salary of Rs.1 lakh per month. He is working as an Engineer in a private concern and therefore, the first respondent has sought for interim maintenance of Rs.50,000/- per month. The said application was resisted on the side of the petitioner/husband stating that the first respondent/wife has voluntarily left the matrimonial home and deserted the petitioner and she has sufficient means to maintain herself and therefore, the first respondent/wife is not entitled for interim maintenance. However, the Court below considering the averments made in the petition and the



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arguments advanced by the respective counsel, ordered a sum of Rs.15,000/- as maintenance for the respondent and Rs.10,000/- as maintenance of the petitioner's daughter and totally a sum of Rs.25,000/- was ordered on 08.04.2019 from the date of petition i.e., 08.04.2019 till the date of disposal of the main HMOP. Aggrieved by this, the petitioner approached this Court by way of this revision.

3. The learned counsel for the petitioner would submit that the petitioner is maintaining his aged mother. He has many financial responsibilities towards his family. He had also borrowed loans to meet out his expenses. Further, the first respondent has potential to earn. The trial Court without considering the above facts, ordered a sum of Rs.25,000/- as interim maintenance, which has caused much hardship to the revision petitioner.

4. The learned counsel appearing for the respondent would submit that trial Court has rightly fixed the maintenance amount of Rs.25,000/- per month, which calls for no interference. Though the order was passed on 05.04.2022, till date the petitioner has not paid even a



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single paise to the respondents as per the direction of the trial Court.

5. Heard on both sides and records perused.

6. On perusal of records, it is seen that no proof of income has been filed showing that the petitioner is drawing a salary of Rs.1,00,000/-. Considering the facts that the first respondent is not an earning member and she has to take care of her child and herself, in the absence of any income proof, this Court reduced the interim maintenance from Rs.25,000/- to Rs.20,000/- to be paid by the petitioner to the respondents on 10th day of every English calender month and the petitioner is directed to pay the entire arrears amount at the rate of Rs.20,000/- from the date of petition till the date of this order within a period of three months in three installments. Considering the fact that the main petition is pending from the year 2019, the learned Subordinate Judge, Palani, is directed to dispose of the above HMOP No.72 of 2019 within a period of three months from the date of receipt of a copy of this order.



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7. With the above direction, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

04.09.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To
The Principal Subordinate Judge,
Palani.



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K.GOVINDARAJAN THILAKAVADI, J.

cp

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