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C.R.P.(MD)No.1054 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)No.1054 of 2022

and

C.M.P.(MD)No.3546 of 2022

Lourdhu Julius Subash, S/o.Late Selvaraj

.. Petitioner

Versus

Minor Kevin Subiksan,
S/o.P.Vinudharani,
Rep. by Mother/Natural Guardian,
P.Vinudharani,
No.268/245, Arockia Mary Matha Street,
Kanmaikarai,
Madurai.

.. Respondent

Prayer :- Petition filed under Article 227 of the Constitution of India, against the order dated 31.12.2022, passed in M.C.No.103 of 2016, on the file of the Family Court, Madurai.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.J.Gunaseelan Muthiah

ORDER

The petitioner is aggrieved by the impugned order, dated 31.12.2022, passed in M.C.No.103 of 2016, by the learned Judge, Family Court, Madurai.



2. By the impugned order, the learned Judge, Family Court, Madurai, has awarded a sum of Rs.10,000/- towards monthly maintenance payable to the respondent, minor child of the petitioner.

3. It is the specific case of the petitioner that he was married to the respondent's mother P.Vinudharani and that on account of matrimonial dispute and differences, the petitioner had filed I.D.O.P.No.3 of 2014, which came to be decreed by the Court on 22.02.2016, thereby, dissolving the marriage between the petitioner and the said P.Vinudharani. After the marriage was dissolved, M.C.No.103 of 2016 was filed by the respondent [Minor], represented by the petitioner's former wife P.Vinudharani, on 26.09.2016, claiming maintenance of Rs.16,000/- per month.

4. It is submitted that the petitioner is working as a Loan Verification Officer with Kodak Mahindra Bank and that he is ailing from several illness and is currently drawing a meagre salary and therefore, it is onerous for him to pay a sum of Rs.10,000/- per month towards maintenance as ordered/awarded by the learned Judge, Family Court, Madurai.

5. When the Civil Revision Petition was taken up for hearing on 14.06.2022, it was mentioned that the petitioner was in arrears of Rs.6,70,000/- and that pursuant to the direction of this Court, the petitioner has paid a sum of Rs.3,00,000/-.



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6. It is submitted that the order passed by the learned Judge, Family Court, Madurai, may be modified, as the petitioner is incapable of paying Rs.10,000/- per month towards maintenance of the respondent/minor child. That apart, it is submitted that the petitioner's former wife/mother of the respondent is also employed as a Teacher in a minority institution and she is also equally responsible for bringing up the child. Therefore, on this count also, the order passed by the learned Judge, Family Court, Madurai, is liable to be modified.

7. Per contra, the learned counsel for the respondent submits that the order of the learned Judge, Family Court, Madurai, is well reasoned and requires no interference. It is submitted that in M.C.No.103 of 2016 a sum of Rs.16,000/- has been claimed as monthly maintenance. However, the learned Judge, Family Court, Madurai, has awarded only a sum of Rs.10,000/- towards monthly maintenance. That apart, the respondent's mother/former wife of the petitioner is only drawing monthly salary of Rs.8,000/- and to maintain the child, the amount awarded by the learned Judge, Family Court, Madurai, need not be disturbed.

8. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.



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9. The facts on record indicate that already this Court, vide its order dated 06.02.2023, directed the petitioner to pay a sum of Rs.8,000/- per month instead of Rs.10,000/- per month. Considering the fact that the petitioner is ailing and was supposed to be suffering from heart ailments, the amount awarded by the learned Judge, Family Court, Madurai, in M.C.No.103 of 2016, is modified from Rs.10,000/- per month to Rs.8,000/- per month. The petitioner shall pay a sum of Rs.8,000/- towards monthly maintenance to the respondent/minor child from 1st May, 2023. The petitioner shall however pay the arrears as on date as per the impugned order of the Family Court, Madurai. Liberty is given to the respondent to apply for modification of the order, in case, there are other evidences available to substantiate that the petitioner has sufficient means to pay the amount that was already awarded by the learned Judge, Family Court, Madurai.

10. This Civil Revision Petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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12.04.2023

To

The Judge,
Family Court,
Madurai.

<https://www.mhc.tn.gov.in/judis>



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C.SARAVANAN, J.

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Order made in
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