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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.2214 of 2023
and
C.M.P(MD)No.11315 of 2023

R.Sethupathi

... Petitioner/Respondent/
Petitioner

Vs.

P.Ranjina

...Respondent/Petitioner/
Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 04.08.2022 passed in I.A.No.1 of 2021 in H.M.O.P.No.164 of 2019 on the file of the Sub-Court, Melur.

For Petitioner :Mr.C.Mayilvahana Rajendran

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order, dated 04.08.2022 passed in I.A.No.1 of 2021 in H.M.O.P.No.164 of 2019 by the Sub-Court, Melur.



2. According to the petitioner/husband, he filed a petition in H.M.O.P.No.164 of 2019 before the Sub-Court, Melur, for divorce. During the pendency of the said application, the respondent/wife filed an application in I.A.No.1 of 2021 for interim maintenance, in which, the learned Subordinate Judge, Melur, considering the income of the petitioner ordered a sum of Rs.8,000/- per month as interim maintenance to the respondent. Against which, the present civil revision petition is filed.

3. The learned counsel appearing for the petitioner would contend that the petitioner has purchased a Van for a sum of Rs.7 lakhs, for which, he availed finance from the Private Finance Company for a sum of Rs.5 lakhs and he has to pay a sum of Rs.13,000/- as monthly installment. Due to Covid-19 pandemic, he could not pay the installment and he availed a loan from UCO Bank by mortgaging agricultural property for a sum of Rs.3 lakhs. The learned counsel would further contend that without considering the above fact, the trial Court has ordered a sum of Rs.8,000/- as interim maintenance and in the present situation, the petitioner is unable to pay the said amount. In spite of several efforts, the respondent never come forward to have a compromise with the petitioner. Apart from that, the mother of the respondent has borrowed a sum of Rs.2,00,000/- on the recommendation of the petitioner, which is not repaid by her. Hence, the petitioner is now paying the interest in the said loan obtained by the mother of the



respondent. Hence, he prays for setting aside the order passed by the learned Sub-Judge, Melur.

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3. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

4. The petitioner has filed H.M.O.P.No.164 of 2019 before the Subordinate Court, Melur, for divorce. During the pendency of the said application, the respondent/wife filed an application in I.A.No.1 of 2021 for interim maintenance, in which, the learned Subordinate Judge, Melur, considering the income of the petitioner, ordered a sum of Rs.8,000/- per month as interim maintenance to the respondent/wife. Against which, the present Civil Revision Petition is filed. The said I.A was filed under the Hindu Marriage Act.

5. Section 24 of the Hindu Marriage Act is extracted hereunder:

“24 Maintenance pendente lite and expenses of proceedings. ?Where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the



petitioner's own income and the income of the respondent, it may seem to the court to be reasonable:

[Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.]

6. Admittedly, the petitioner/husband has filed the divorce petition under Section 13(1)(i-a)(i-b) of Hindu Marriage Act, on the ground of cruelty and desertion. It is not in dispute that the petitioner has got a female child, who is under the custody of the respondent/wife. It is also not established by the petitioner/husband that the respondent is having sufficient means to maintain herself and the female child. It is settled law that the petitioner, who is being the legal husband, is bound to maintain his wife and child. Therefore, the petitioner is bound to pay the maintenance amount to the wife. It is also admitted by the petitioner /husband before the trial Court that he has got three acres of land and doing lorry business. Therefore, the petitioner/husband is having sufficient source of income to maintain the respondent. The trial Court has ordered only a sum of Rs.8,000/- per month as maintenance, which according to this Court, is not excessive.



7.Considering the facts and circumstances of the case, no infirmity is found in the order passed by the trial Court. Hence, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

04.09.2023

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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To

1.The Sub-Court,
Melur.

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



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K.GOVINDARAJAN THILAKAVADI, J.

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