



C.R.P.(MD) No.1792 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

C.R.P.(MD) No.1792 of 2022

and

C.M.P.(MD) No.7972 of 2022

Murugan

... Petitioner

Vs.

1.Thenmozhi

2.Mino Kavya Sri
represented by her mother
and natural guardian/
1st petitioner

... Respondents

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.No.1 of 2022 in H.M.O.P.No.165 of 2021 on the file of the Subordinate Court, Ambasamudram dated 02.06.2022.

For Petitioner : Mr.R.J.Karthick

For R1 : Mr.K.A.Thirumalaiappan



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ORDER

This Civil Revision Petition has been filed by the petitioner as against the impugned fair and decretal order dated 02.06.2022 passed in I.A.No.1 of 2022 in H.M.O.P.No.165 of 2021 on the file of the Subordinate Court, Ambasamudram.

2. The said H.M.O.P.No.165 of 2021 was filed by the petitioner/husband for divorce. During the pendency of the said petition, the respondents who are the wife and minor daughter of the petitioner filed I.A.No.1 of 2022 under Section 24 of the Hindu Marriage Act for interim maintenance. Based on the averments made in the affidavit and in the counter affidavit, the Trial Court has directed the petitioner/husband to pay a sum of Rs.30,000/- to each of the respondents and a sum of Rs.9,000/- for litigation expenses.

3. Assailing the said order, the petitioner/husband preferred this Civil Revision Petition by stating that without following directions issued by the Hon'ble Apex Court in **Rajnesh Vs. Neha and Another**, reported in 2021 AIR SC 569, the Trial Court ordered interim maintenance of Rs.30,000/- each (totally Rs.60,000/-) per month and cost of litigation expenses of Rs.9,000/-.



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4. It is submitted that in **Rajnesh** case cited *supra*, the Hon'ble Apex Court has held that in all maintenance proceedings, both parties shall file the Affidavit of Disclosure of Assets and Liabilities annexed as Enclosures I, II and III of the Judgment, before the concerned Family Court / District Court / Magistrates Court, as the case may be. However, in the present case, the Trial Court ordered interim maintenance without any such Affidavit of Disclosure of Assets and Liabilities of both parties.

5. It is further submitted that the respondents have filed D.V.M.C.No.16 of 2021 before the Judicial Magistrate Court, Ambasamudram claiming maintenance of Rs.15,000/- each. Without considering the above, the Trial Court ordered a sum of Rs.60,000/- per month totally to be paid by the petitioner to the respondents as interim maintenance *vide* the impugned order dated 02.06.2022 passed in I.A.No.1 of 2022.

6. Heard on both sides. Records perused.

7. Admittedly, parties have not filed Affidavit of Disclosure of Assets and Liabilities before the Court below in the interim maintenance application.



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Without any such Affidavit of Disclosure of Assets and Liabilities, the Trial Court ought not to have fixed the monthly maintenance to be paid by the petitioner to the respondents. Therefore, this Court set aside the impugned order dated 02.06.2022 passed in I.A.No.1 of 2022 in H.M.O.P.No.165 of 2021 and remit the matter back to the Subordinate Court, Ambasamudram for fresh disposal of I.A.No.1 of 2022.

8. The petitioner and the respondents are directed to file their Affidavit of Disclosure of Assets and Liabilities before the Court below. After receipt of such Affidavit of Disclosure of Assets and Liabilities of the parties, the learned Subordinate Judge, Ambasamudram is directed to consider the same and dispose the I.A. in accordance with law, within a period of two months from the date of receipt of a copy of this order.

9. The petitioner is also directed to continue to pay the interim maintenance at the rate of Rs.20,000/- per month (Rs.10,000/- each) as fixed by this Court in the interim order dated 02.09.2022 passed in this Civil Revision Petition, without prejudice to the claims made by the parties, till the disposal of the I.A.



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WEB COPY 10. This Civil Revision Petition is disposed of with the above directions.

No cost. Consequently, connected Miscellaneous Petition is closed.

21.08.2023

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

The Subordinate Judge,
Ambasamudram.



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K.GOVINDARAJAN THILAKAVADI, J.

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