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C.R.P(PD)(MD).No.1045 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.04.2023

Pronounced on : 19.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.R.P(PD)(MD).No.1045 of 2018

and

C.M.P(MD)No.4514 of 2018

Murugeswari

... Petitioner

Vs.

Karupasamy @ Kumar

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, to set aside fair and decreetal order passed in I.A.No.58 of 2015 in HMOP.No.111 of 2014 on the file of Sub Court, Kovilpatti and to grant such further relief as this Hon'ble Court deem fit in the circumstances of the case.

For Petitioner : Mr.S.Ponsenthilkumaran

For Respondent : No Appearance

ORDER

This Civil Revision Petition is filed against the fair order and decreetal order passed in I.A.No.58 of 2015 in HMOP.No.111 of 2014 on the file of the Subordinate Court, Kovilpatti.



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2. The brief facts of the case:

The revision petitioner is the petitioner in I.A.No.58 of 2015 in HMOP.No.111 of 2014 on the file of the Subordinate Court, Kovilpatti. She filed that petition against the respondent seeking interim alimony of Rs.2,500/- p.m each towards herself and her minor child and litigation expenses of Rs.5,000/-. After hearing, the Trial Court has partly allowed the petition directing the respondent to pay Rs.1,000/- p.m to the petitioner alone and to pay the arrears from the date of filing petition i.e., 27.3.2015 till date of passing order i.e., 09.03.2018 within two years by passing order dated 09.03.2018. Aggrieved by the order of the Trial Court, the petitioner moved this Court by way of this Civil Revision Petition.

3. Even after granting sufficient opportunities there is no representation for the respondent. Heard the petitioner side and perused the records.

4. The learned counsel appearing for the revision petitioner has submitted that the petitioner is the wife of the respondent and their marriage was solemnized on 05.03.2007. Out of wedlock, a male child named Karuppasamy was born to them on 09.02.2008. The respondent



has filed the main HMOP.No.111 of 2014 before the Sub Court, Kovilpaatti against the petitioner for divorce on false grounds. Pending main HMOP, the petitioner has filed the interlocutory petition seeking for interim maintenance of Rs.2,500/- p.m each towards the petitioner and her minor child. The respondent has filed counter but remained ex-parte in that petition. The Trial Court has passed impugned order directing the respondent to pay Rs.1,000/- p.m to the petitioner alone on the ground that the petition was not filed on behalf of the minor child and the description particulars of the minor child was not shown in the petition. Further, the Trial Court has failed to consider the fact that the petitioner is residing at Virudhunagar and she is attending the main case at Sub Court, Kovilpatti and failed to order for litigation expenses. Therefore, the impugned order has to be set aside and the interim maintenance and litigation expenses may be ordered as sought in the petition.

5. On hearing and on perusal of order of Trial Court, it is clear that the petitioner and the respondent are spouses and they have a minor male child Karuppasamy out of their wedlock and there is no dispute in it. When the fact being so, the Trial Court was wrong in not granting relief of interim maintenance to minor child on the ground the petition was not filed on behalf of the minor child also. In the prayer column of the



petition, the petitioner has clearly sought interim maintenance for minor child. It is the bounden duty of the father to maintain his minor child till the minor child attains major or he/she is able to earn after attaining majority. There is no denial that the petitioner is residing at Virudhunagar and she is attending the Court at Kovilpatti. In matrimonial life, the husband has to maintain his wife and his children by providing sufficient means and shelter and the father has to provide sufficient education to his children. The respondent/husband has not come forward to put forth his case as he is not able to earn as stated in his counter. Though the Trial Court has ordered for interim maintenance, considering the present cost of living, the impugned order of interim alimony of Rs.1,000/- p.m is liable to be modified and the petitioner is entitled for interim alimony of Rs.2,000/- p.m towards herself and of Rs.1,000/- p.m towards minor child and also the petitioner is entitled to Rs.5,000/- towards litigation expenses. Therefore, the impugned order of the Trial Court warrants interference by way of this Civil Revision Petition.

6. In the result, this Civil Revision Petition is partly allowed. The order of the Trial Court passed in I.A.No.58 of 2015 in HMOP.No.111 of 2014 dated 09.03.2018 is modified. The respondent is directed to pay interim maintenance of Rs.2,000/- p.m towards the petitioner and of



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Rs.1,000/- p.m towards minor child Karuppasamy from the date of petition in I.A.No.58 of 2015 in HMOP.No.111 of 2014. The respondent is also directed to pay Rs.5,000/- to the petitioner towards litigation expenses. As ordered above, the respondent is directed to pay the arrear of interim alimony within two months and to pay the subsequent monthly alimony on or before 5th day of every succeeding English Calendar month. No costs. Consequently, connected miscellaneous petition is closed.

19.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
vsd

To

- 1.The Subordinate Court,
Kovilpatti.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

vsd

Pre - Delivery Order made in
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