



C.M.A.(MD).No.1085 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 21.11.2023

Delivered on: 12.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**C.M.A.(MD).No.1085 of 2022
and
C.M.P.(MD)Nos.11049 & 12329 of 2022**

Sivaramakrishnan

... Appellant / Respondent/ Petitioner

Vs.

Subbulakshmi

... Respondent / Petitioner / Respondent

Prayer:- Appeal filed under Section 19 of Family Court Act, against the fair and decretal order, passed in I.A.No.3 of 2021, made in H.M.O.P. No.118 of 2021, dated 05.08.2022 on the file of the Judge, Family Court, Tirunelveli.

For Appellant : Mr.M.S.Jeyakarthik

For Respondent : Mr.S.Micheal Heldon Kumar



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JUDGMENT

P.B.BALAJI,J.

The husband is the revision petitioner, aggrieved by the order of the Family Court, Tirunelveli, in I.A.No.3 of 2021, made in H.M.O.P. No.118 of 2021, dated 05.08.2022.

2. The respondent / wife filed an application under Section 24 of the Hindu Marriage Act, seeking interim maintenance of Rs.20,000/- for herself and Rs.10,000/- to each of her children and a sum of Rs.5,000/- towards litigation expenses.

3. The Family Court, after considering the petition and counter filed by the wife and husband respectively, awarded a sum of Rs.5,000/- p.m, to the wife and Rs.3,000/- p.m., each to the two daughters towards interim maintenance. Aggrieved by this order, the present Civil Miscellaneous Appeal has been preferred by the husband.



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4. We have heard Mr.M.S.Jeyakarthik, learned counsel for the appellant and Mr.S.Micheal Heldon Kumar, learned counsel for the respondent. We have also perused the records.

5. The learned counsel for the appellant would submit that the main contention of the appellant / husband is that the wife had initiated Domestic Violence Proceedings in D.V.C.No.51 of 2022 and a settlement was reached in the Lok Adalat and in terms of the said settlement, the appellant / husband has been paying a sum of Rs.10,000/- per month regularly, without any default and therefore, he would contend that suppressing the said settlement arrived at before the Lok Adalat, the respondent / wife ought not to have filed the petition under Section 24 of the Hindu Marriage Act.

6. Per contra, the learned counsel for the respondent would submit that the appellant himself never referred about the Lok Adalat settlement in his counter and the amount ordered by the Family Court was only Rs.11,000/-, which was highly insufficient, even to maintain a single child and therefore, no interference was warranted in the present Civil



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Miscellaneous Appeal and he prayed for dismissal of the Appeal.

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7. It is seen from the pleadings that the issue of a settlement being arrived at before the Lok Adalat was not brought to the notice of the Family Court. However, since the learned counsel for the appellant stated that a memo was filed, bringing the same to the notice of the Family Court, we called upon the Family Court to file a report in this regard. Now, we have received a report from the Family Court, stating that the award of the Lok Adalat was not filed before the Family Court and since a copy of the award was filed on 18.07.2022, without giving notice to the other side, the same was neither recorded nor marked as a document.

8. We have also examined the copy of the settlement award passed before the Lok Adalat in D.V. Proceedings. No doubt, the parties had arrived at a settlement, fixing the total maintenance amount for the wife and children at Rs.10,000/- per month. Unfortunately, the appellant has not even pleaded about the same before the Family Court in his counter to the application under Section 24 of the Hindu Marriage Act. Even thereafter, he has only chosen to file a copy of the said settlement award,



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without furnishing copy to the other side and rightly, the Family Court has not taken cognizance of the said settlement award and proceeded with the available materials before it. We, therefore, do not find fault with the order of the Family Court. Even otherwise, as seen from the terms of the settlement award arrived at between the appellant and the respondent, though the respondent wife has stated that she would not claim any maintenance, a liberty was reserved for her to claim enhancement of the interim maintenance amount.

9. Considering the overall facts and circumstances, we do not deem it fit and proper case to interfere with the order of the Family Court, awarding Rs.11,000/- towards interim maintenance to his wife and minor daughters. Though the parties had arrived at settlement before the Lok Adalat and fixed a sum of Rs.10,000/- to be payable for the respondent and the minor daughters and the husband has been paying the same without any default, in view of the fact that the parties themselves contemplated an enhancement to the said amount, we have no hesitation in confirming the sum of Rs.11,000/- awarded by the Family Court. However, we make it clear that the said amount will include the amount of Rs.10,000/-, agreed



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upon by the appellant and the respondent before the Lok Adalat in D.V proceedings.

10. In fine, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

(T.K.R.J.) & (P.B.B.J)
12.12.2023

Internet : Yes
Index:Yes/No
Neutral Citation:Yes/No
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To

- 1.The Judge,
Family Court,
Tirunelveli.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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RMT.TEEKAA RAMAN, J.,
and
P.B.BALAJI, J

Ls

judgment in
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12.12.2023