



C.R.P.No.419 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.419 of 2023
and CMP.No.3532 of 2023

1.M.Subashini

2.T.Yogamagizhini

Rep by her mother & natural guardian

viz., 1st petitioner

... Petitioners

Vs

Thulasimani

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order and decretal order passed in I.A.No.01 of 2021 in H.M.O.P.No.64 of 2022 on the file of Subordinate Court, Katpadi at Vellore District vide order dated 16.11.2022 and therefore, enhance the interim maintenance amount and consequently direct the respondent to pay the interim maintenance.

For Petitioners : Mr.M.Sathish Kumar

For Respondent : Ms.S.R.Aadhishree
for Mr.S.Parthasarathy



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ORDER

WEB COPY The first petitioner and the sole respondent are husband and wife.

They got married on 20.05.2018. From the wedlock a female child was born, who is the second petitioner. Due to differences between the husband and wife, the husband initiated H.M.O.P.No.29 of 2020 for divorce before the Sub Court, Vellore and the same was then transferred to Sub Court, Katpadi at Vellore District, which was taken on file as H.M.O.P.No.64 of 2022. Pending the main H.M.O.P., the wife took out two applications i.e., I.A.No.1/2021 seeking maintenance and I.A.No.2/2021 seeking return of her Stridhana jewels. In the said applications, the minor child was arrayed as second petitioner.

2. Notice was ordered in the said applications and the respondent filed a counter stating that after the "seemantham" function, the petitioner wife had taken away the jewels that were in her matrimonial home, along with fridge, washing machine, LED TV, air-conditioner and other furnitures.

3. On receipt of the counter, the learned Judge took up the case for enquiry. She partly allowed the said applications vide common order dated



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16.11.2022. As against the common order passed in the said applications, two revisions are preferred before this Court by the wife and her minor child, i.e., (a) C.R.P.No.419 of 2023 (as against I.A.No.1 of 2021 filed for interim maintenance) and (b) C.R.P.No.420 of 2023 (as against I.A.No.2 of 2021 filed for return of Stridhana articles).

4. Notice was ordered in both these revisions, the respondent was served and he had entered appearance through his counsel.

5. Heard Mr.M.Sathish Kumar for the revision petitioners and Ms.S.R.Aadhishree for the respondent.

6. Insofar as the interim maintenance application is concerned, the petitioner-wife and respondent-husband have not filed an affidavit of assets and liabilities, as directed by the Supreme Court. It is not in dispute that the husband is working in M/s.IFFCO Tokio Insurance Company as Assistant Manager. He is said to be drawing a monthly salary of around Rs.69,000/-. The learned Trial Judge instead of calling upon the respondent-husband to file his affidavit of assets, has found fault with the wife that she had filed a



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petition for maintenance after one year from the date of filing the HMOP.

The learned Judge further denied maintenance to girl child who is aged about five years today, on the ground that Section 24 of Hindu Marriage Act does not deal with maintenance for the child.

7. I am surprised to read this preposition of law to say the least. Section 24 of the Hindu Marriage Act not only covers maintenance for the wife but also for dependant children. This position has been settled by this Court years ago, yet the learned Judge has taken a decision that Section 24 of Hindu Marriage Act, only contemplates payment to wife and not to children. On this short ground the order of the learned Judge is set aside.

8. Apart from this, a fundamental error has been committed by the learned Judge. She has come to the conclusion that the wife is entitled to a sum of Rs.2,000/- per month as maintenance, which when calculated on daily basis, it only comes to Rs.70/- per day. As held in ***Bharat Hegde Vs Saroj Hegde* [2007 SCC OnLine Del 622]**, the grant of maintenance by a Court is to enable the wife to live in the same standard as she had been living in her matrimonial home. By no stretch of imagination, the wife of the Assistant



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Manager would survive on Rs.70/- per day. When the respondent-husband is drawing a sum of Rs.69,000/- per month and when the petitioners had been living with him, he would have spent atleast Rs.20,000/- per month on his wife and child, which is less than 1/3rd salary that the respondent receives. Hence, I am of the opinion that the wife and child are entitled to be maintained to that extent. Accordingly, the order in I.A.No.1/2021 is set aside.

9. The petitioners are therefore entitled to be maintained at the rate of Rs.12,500/- per month to the first petitioner-wife and Rs.7,500/- per month to the second petitioner i.e., the daughter. The husband is liable to pay the maintenance from the date of filing of H.M.O.P. i.e., from 01.09.2020 onwards. The arrears shall be paid on or before 20.08.2024. The payment of arrears does not mean that the husband need not pay the monthly maintenance to the wife till August 2024. He shall clear the entire arrears till August, 2024. Till the disposal of HMOP.No.64/2022, the husband is obliged to pay Rs.20,000/- per month to the petitioners herein, unless this maintenance amount is enhanced by way of an application filed by the wife.



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WEB COPY 10. With the above direction, the revision in CRP.No.419 of 2023 is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

11.06.2024

Index:Yes/No
Speaking order / Non-speaking orders

To:

1.The Sub Judge
Katpadi.

2.The Section Officer,
VR Section, High Court, Chennai.



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V.LAKSHMINARAYANAN,J.

ds

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