



C.R.P. (PD) No.3146 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition (PD) No.3146 of 2024
and C.M.P.No.16804 of 2024

Sathish

.. Appellant/Respondent/Petitioner

Versus

Punithavathi

.. Respondent/Petitioner/Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the judgment and decree in I.A.No.3 of 2023 in H.M.O.P.No.121 of 2022 passed by the Family Judge, Family Court at Perambalur, by order dated 23.08.2023.

For the Petitioner : Mr.E.Balamurugan

ORDER

This Civil Revision Petition challenges the order of the learned Family Judge, Family Court, Perambalur in I.A.No.3 of 2023 in H.M.O.P.No.121 of 2022 dated 23.08.2023.



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2. There is no dispute in the relationship between the petitioner and the respondent. The petitioner is the husband and the respondent is the wife. They married each other on 02.07.2010. From the wedlock, two children were born. The husband asserts that the children are in his custody. The wife would state that on account of abuse by the husband, she left the matrimonial home and is residing separately.

3. The husband, taking note of the fact that his wife had separated from him, filed H.M.O.P.No.121 of 2022, invoking the provisions of 13 (1), (1-a) and (1-b) of the Hindu Marriage Act.

4. On being served with summons, the wife took out an application for grant of interim maintenance. She pleaded that the husband is earning around Rs.30,000/- per month and that she is unable to maintain herself. She would state that the husband is getting sumptuous salary from a private firm, in which he is working. Therefore, she requested the Court to fix the monthly maintenance as Rs.10,000/- per month.



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5. The respondent filed a prolix counter running to several pages stating that he has studied till 7th standard only, whereas, the wife holds Diploma in Nursing. Therefore, he would plead that since the wife is capable of earning, he is not liable to maintain her.

6. During the course of the proceedings, neither the petitioner nor the respondent decided to grace the witness box. The learned Judge on the basis of the available evidence passed an order, directing the Civil Revision Petitioner to pay a sum of Rs.3,000/- per month to the respondent/wife. Against which, the present Civil Revision Petition has been filed.

7. Heard, Mr.E.Bala Murugan, Counsel for the Civil Revision Petitioner.

8. Mr.E.Bala Murugan, would urge that the husband is suffering from back pain and is spending considerable amount towards his health. He would state that the children are in his custody and he is the one taking care of them. He would further state that the wife left the matrimonial home only



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because, she had developed an illicit relationship with a third party. He would plead that the wife is not entitled to any interim maintenance, because of her conduct.

9. I have carefully considered the submissions made on either side.

10. Relationship between the parties being admitted, it is the duty of the husband to maintain the wife. The fact that the wife is capable of earning does not mean the husband can shirk his responsibility. The husband has not let in any evidence before the Trial Court, in order to substantiate his plea that he is suffering from illness and has to spend money to take care of his health.

11. On the contrary, the wife has specifically pleaded that she is unemployed and not in a position to take care of her financial needs. Whether she is committing adultery or not, is a matter which has to be gone into only at the time of final disposal. In order to survive till the end of the litigation, the wife would have to be maintained. All that the Court has ordered is Rs.100/- per day only, that is neither excessive nor arbitrary, therefore, it requires no



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interference.

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12. In view of the above discussion, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

07.08.2024

Index : Yes / No
Internet: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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To
The Family Judge
Family Court, Perambalur.



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V.LAKSHMINARAYANAN, J.,

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