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C.R.P.No.541 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.03.2024

PRONOUNCED ON: 15.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

C.R.P.No.541 of 2024
and
C.M.P.No.2639 of 2024

R. Srikanth

...

Petitioner

/vs/

1. Kavitha

2. Minor S.Adharvaa

...

Respondents

Prayer : Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 20.09.2023 passed in I.A.No. 1 of 2022 in HMOP No.215 of 2022 on the file of the Subordinate Judge, Thiruvottiyur.

For Petitioner

...

Mr. M.A.Lakshmipathi

For Respondents

...

Mr. A. Rajesh Kanna



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ORDER

Challenging the order passed by the learned Subordinate Judge, Thiruvottiyur in I.A.No.1 of 2022 in HMOP No.215 of 2022, the present Civil Revision Petition has been filed.

2. The fact of the case is that the marriage between the petitioner/husband and the first respondent/wife took place on 20.11.2009 at Nel and Arisi Wholesale Viyabarigal Sanga Kalyana Mandapam, Redhills. Out of the wedlock, a male child, namely S.Adharvaa,^{2nd} respondent herein born on 04.08.2022. For the past 8 years, they were living separately. The first respondent/wife filed HMOP No.215 of 2022 under Section 13(1)(i-a) & (i-b) of the Hindu Marriage Act 1955 for divorce on the ground of cruelty and desertion, in which she had filed a petition in I.A.No.1 of 2022 under Section 24 of the Act for interim maintenance and the learned Trial Judge, by an order dated 20.09.2023 allowed the same and directed the petitioner/husband to pay a sum of



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Rs.10,000/- per month as interim maintenance to the respondents/wife & son from the date of filing of the petition and also directed to pay the arrears amount within 3 months. The learned Trial Judge also directed the respondent to pay 50% of the educational expenses of the 2nd respondent/son commencing from 2023-2024 on production of proper school fee circular/receipt by the first respondent/wife. Aggrieved over the same, the revision has been filed.

3. The learned counsel for the petitioner submitted that as per the provision of Section 24 of the Hindu Marriage Act, the spouse is entitled for interim maintenance only when she has no independent sufficient income for her support and necessary expenses of the proceedings. In this case, the petitioner/husband and the first respondent/wife had filed affidavit of assets and liabilities, in which, the petitioner/husband disclosed the fact that though he worked as a Quality Control Inspector at M/s.Mohib Shoes Pvt. Ltd., Ambur, Thirupathur District and gained a sum of Rs.70,000/-per month at present, the company was closed and he become un-employed for the past two months. The respondent/wife, in her



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assets and liability disclosed her monthly income is Rs.45,000/-per month by working as System Analyst in Siritek Technologies Pvt., Ltd and the said fact is not considered by the Trial Court while awarding interim maintenance , which is liable to be set aside.

4. The learned counsel appearing for the respondents supported the impugned order and further contended that though the first respondent/wife is earning Rs.45,000/- she borrowed home loan and hand loans and after deducting the loan amounts she is not having sufficient income to meet her needs and also she has to pay the school fees for her child and she had paid Rs.3,20,650/- for the school fees. Under these circumstances, there is no ground to interfere with the impugned order and seeks to dismiss the revision.

5. I have considered the matter in the light of the submissions made by the learned counsel on both sides and perused the materials available on records carefully.



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6. On perusal of the records, it reveals that the first respondent/wife filed HMOP No.215 of 2022 on the file of the Subordinate Judge, Thiruvottiyur under Section 13(1)(i-a) and (i-b) of the Hindu Marriage Act for divorce, in which, she filed an application in I.A.No.1 of 2022 under Section 24 of the Act for interim maintenance and the same was allowed and the revision petitioner/husband was directed to pay a sum of Rs.10,000/- per month to the respondents/wife & son from the date of filing of the said petition and also directed to pay the arrears for maintenance within a period of three months from 20.09.2023.

7. On perusal of the assets and liabilities filed by the respective parties, it is noticed that the revision petitioner worked at M/s.Mohib Shoes Private Limited Company, Ambur as a Quality Control Inspector and that fact was not disputed and he disclosed that he earned Rs.70,000/- per month and Now, his contention is that he become unemployed due to the closure of the company. The said reason is not acceptable ground to relieve him from the liability of paying maintenance to the wife. The first



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respondent/wife in her Assets and liabilities gave details that she is earning Rs.45,000/- per month. It is also noticed that she is taking the burden of paying the school fees for her son and also paying the loan obtained from the bank and other persons for purchasing the home. This fact is also not disputed by the revision petitioner. Under these circumstances, the award of Rs.10,000/- ordered by the Trial Court as maintenance to the respondents is not a huge amount and the revision petitioner/husband is duty bound to maintain his wife and child. Therefore, I find no infirmity in the impugned order passed by the Trial Court and there is no ground for interference and I find no merit in this revision and the same is liable to be dismissed.

8. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

15.03.2024

Index : Yes/No
Internet : Yes/No
mrp

To

The Subordinate Judge,



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Subordinate Court,
Thiruvottiyur.



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V.SIVAGNANAM ,J.

mrp

Pre-delivery order made
in
C.R.P.No.541 of 2024

15.03.2024