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Reserved on: 01.07.2024

Pronounced on: 05.07.2024

A.No.2033 of 2024

in

C.S. No.984 of 2015 &

C.S. No.496 of 2017

P.B.BALAJI, J.

The Application has been taken out by the defendant seeking modification of the order dated 27.03.2018 and the subsequent order dated 04.07.2018 by permitting the Applicant to pay Rs.17,500/- instead of Rs.35,000/- per month to the mother 2nd respondent, Mrs.Lakshamma pending disposal of the suit.

2. I have heard Mr. R.Thiagarajan counsel for an applicant/defendant and Mr.S.Elambharathi, learned counsel for the respondents/plaintiffs.

3. According to Mr.R.Thiagarajan, learned counsel for the Applicant, by an order dated 27.03.2018, this Court had directed the defendant to pay Rs.35,000/- from April 2018 to his father besides also making payment of the Electricity Consumption Charges for the portion occupied by defendant's parents. As there was an abnormal increase in the Electricity Consumption Charges, by an order dated 04.07.2018 the order dated 27.03.2018 was modified with respect to the Electricity consumption Charges alone, limiting



it to Rs.1,000/- in respect of the portion occupied by the defendant's parents.

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4. Mr.R.Thiagarajan, learned counsel would submit that he has been paying the amounts as directed by this Court without any default and on 06.07.2023, his father passed away and therefore, the defendant is not obliged to pay Rs.35,000/- and he seeks to modify the order and limit it to 50% of the original amount, taking to the account the fact that his father is no more. The learned counsel would further submit that he was also taken care of the medical needs of the father by meeting the entire expenditure from his pocket. The learned counsel for the Applicant would therefore, pray for the Application being allowed as prayed for.

5. Per contra, Mr.S.Elambharathi, learned counsel would submit that the mother is aged 73 years and she depends only on the money deposited by the defendant for even her basic sustenance. He would further submit that even the said Rs.35,000/- is not being paid regularly and as against Rs.7,35,000/- payable for the period May 2021 to January 2023, the Applicant has only deposited Rs.6,45,250/-. Further, he would submit that the mother has spent nearly Rs10 lakhs for medical expenses of her husband and the defendant who claims to be a dutiful son has spent only Rs.1 lakh



which too, he seeks to adjust from the amounts payable as directed by this Court. He would also bring to my attention that in and by a Settlement Deed dated 22.08.2014, the father had settled the property in favour of his wife, that is the mother, then son(defendant) and grandson.

6. In the said Settlement deed, the father had retained a life interest and according to Mr.S.Elambharati, being the said vested remainder beneficiary, the mother has a right to collect the rents from the tenants. According to the mother, the Applicant is collecting more than Rs.80,000/- as rents from the tenants. The learned counsel would therefore prayed for dismissal of the said Application seeking modification.

7. I have carefully considered the rival submissions advanced by the learned counsel on either side.

8. Admittedly, this Court has directed the applicant/defendant to pay sum of Rs.35,000/- to the respondents by order dated 04.07.2018. The said order has been passed by this Court only on a consensus reached between the father and the son and the sum of Rs.35,000/- was agreed upon to be paid from April, 2018 onwards, pending disposal of the suit. Originally, the



plaintiffs are none else than the father, mother and sister of the defendant.

The consensus reached between the son and the father was not only to meet the share of the father alone, but also taking into account the mother's interest as well. Therefore, it cannot be stated that on the death of the father, the amount payable would only be 50% of the original amount, that is Rs.17,500/- instead of Rs.35,000/-. The amount was arrived at taking into account the rental income accruing from the suit property and in order to enable the parents to maintain themselves. In such view of the matter, I do not deem it just and proper to modify the order date 27.03.2018.

9. I do not find any merit or justification in the Application. In fine the above Application is dismissed.

10. Pleadings are complete in C.S.No.496 of 2017 & C.S.No. 984 of 2015. Post these suits for framing issues on 11.07.2024

05.07.2024

rkp

P.B.BALAJI, J.
rkp



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Pre-delivery order made in

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