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C.R.P.(PD).No.1539 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.1539 of 2024 &
CMP.No.8270 of 2024

S.Arjunan

... Petitioner

-Versus-

1.M.Mahalakshmi

2.Minor child A.Thakshan

... Respondents

Civil Revision Petition under Article 227 of the Constitution of India to set aside the order and decretal dated 31.01.2024 in I.A.No.9 of 2023 against I.A.No.3 of 2022 in O.P.No.1490 of 2020 passed by the V Additional Family Court, Chennai.

For Petitioner : Ms.N.Alamelu Mangai

ORDER

The first respondent/wife had moved an application before the V Additional Family Court at Chennai in HMOP.No.1490 of 2020 seeking interim maintenance. This was taken on file as I.A.No.3 of 2022 and the court ordered interim maintenance of Rs.17,500/- per month to the wife as well as to



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the minor child.

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2. Pleading that this amount is on the higher side, the husband moved an application in I.A.No.9 of 2023. This application was dismissed on two grounds. First, the husband had not challenged the order in I.A.No. 3 of 2022 by way of a revision before this court. Second, in the absence of any other proof led in by the husband, the court cannot modify or vary the maintenance order passed on the basis of Ex.P4 which was produced by him during the course of enquiry in this proceeding. Challenging the same, the present revision.

3. Heard Mrs.N.Alamelumangai for the petitioner.

4. Mrs.N.Alamelumangai would vehemently contend that the husband is unemployed and therefore, he cannot pay a sum of Rs.17,500/- per month as maintenance to his wife. Secondly, she would state that from a perusal of Ex.P4, it is clear that the wife is receiving sufficient income and her income is in fact more than the income of the husband. Therefore, the court should vary the order of maintenance.



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5. It is not in dispute that the maintenance had been ordered on 23.01.2023. This order has not been challenged by the husband before any forum. Therefore, that order has become final. An order of interim maintenance, by the very nature of the order, is capable of variation. However, before seeking the variation, the husband must prove that after the order was passed under Section 24 of the Hindu Marriage Act, 1955, there has been change in circumstances for the purpose of interference.

6. Instead of pleading change in circumstances, the husband pleads that the original order is wrong. He is literally seeking review in disguise. It was only after considering the documents that had been filed, that the court came to the conclusion that Rs.17,500 was the bare minimum maintenance that had to be paid by the husband to his wife and child. Without pleading change in circumstances, the question of variation does not arise at all. Even in this petition, the husband has not entered the witness box. All these facts constrained the court to decide that the order passed does not require any variation at all.

7. I do not find any errors in the order. Accordingly, the civil revision



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petition is dismissed. No costs. Consequently, the connected miscellaneous
petition is closed.

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order



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V.LAKSHMINARAYANAN, J.

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To

The V Additional Principal Family Court, Chennai.

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C.M.P.No.8270 of 2024

10.04.2024