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CRP (PD) No.3702 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2024

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THE HON'BLE MR. JUSTICE V.LAKSHMINARAYANAN

CRP (PD) No.3702 of 2024
and CMP No.20077 of 2024

Sudheer Kumar

... Petitioner

Vs.

Thangalakshmi

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Order passed in I.A.No.1 of 2022 in HMOP No.340 of 2019 dated 27.02.2024 on the file of the learned Principal Subordinate Judge, Ponneri.

For Petitioner : Mr.P.Jagadeeswaran
for M/s.V.M.Raghu

ORDER

This Civil Revision Petition arise against the order of the learned Principal Subordinate Judge, Ponneri in I.A.No.1 of 2022 in HMOP No.340 of 2019 dated 27.02.2024.

2 (i) There is no dispute in the relationship between the parties. The Civil Revision Petitioner married the respondent on 13.12.2009. From the wedlock, two children were born on 21.04.2010 and 28.10.2012,



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respectively. Due to disputes and differences, the parties have separated.

The husband has initiated HMOP No.340 of 2019 invoking the provisions of Section 13(1)(1a) and 13(1)(1b) of the Hindu Marriage Act, 1955. The wife has filed the counter and the matter is listed for enquiry. At that stage, the wife took out an application for grant of interim maintenance at the rate of Rs.20,000/- per month for herself and for the two children and for litigation expenses of Rs.20,000/-. This application for interim maintenance was received as I.A.No.1 of 2022.

(ii) Notice was ordered to the Civil Revision Petitioner/respondent in the trial Court and a counter was also filed by him. He would allege that the respondent/wife never used to place trust in the Civil Revision Petitioner and used to attack him using kitchen utensils. He would plead that respondent/wife was ably assisted in the acts of assaults by her sister. He would plead that due to the pandemic caused by COVID-19 virus, he had to relocate to Chennai and undergo an operation at Sundaram Medical Foundation and that he is still under treatment. He would plead that he has no job and under the same breath he would plead that he is currently employed with M/s.Reality Ezcapers, drawing only a sum of Rs.15,000/- per month.



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(iii) The learned Judge taking into consideration the status of the parties and the fact that there are two children, who have been born from the wedlock, fixed a sum of Rs.12,000/- per month for all the three human beings. Pleading that this order is erroneous, the present Civil Revision Petition has come up before me.

3. Heard Mr.P.Jagadeeswaran, learned counsel for the Civil Revision Petitioner.

4. Mr.P.Jagadeeswaran, would reiterate the submissions that was made by his counterpart in the Court below. He would submit that the wife is running a Fancy Store at Ponneri and that she is making substantial income and therefore, the order requires interference.

5. I have carefully considered the argument of Mr.Jagadeeswaran and had gone through the records.

6. The relationship between the parties is not in dispute and I have to take note of the position of the law laid down in the Supreme Court that



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it is the sacrosanct duty of the husband to maintain his wife and children.

Mr.P.Jagadeeswaran, would point out that the children are studying in Government Higher Secondary School at Ponneri and therefore, the expenses towards them would be minimal.

7. Under Section 24 of the Hindu Marriage Act, in the matters of maintenance, any spouse can plead that he/she is not in a position to maintain himself/herself and it is the duty of the other spouse to give appropriate amounts for the purpose of maintenance. The amount, that is fixed as the maintenance should be commensurate to their status and station in the Society. Courts have taken a view that under Section 24 of the Hindu Marriage Act, a husband can be ordered to pay the maintenance, not only to the wife but also to the children. The quantum of maintenance is always the discretion left to the learned trial Judge, who has the benefit of seeing the parties.

8. In the present case, the fact that the husband is employed is not in dispute. The wife is not employed in a permanent income generating employment. There are two children from the wedlock. The children are aged about 12 and 10 years respectively. The Court below taking into



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consideration the position of the parties has fixed a reasonable figure of Rs.4,000/- per head. This amount cannot be said to be either excessive or arbitrary, considering that the family is residing in the town of Ponneri. Unless and until the amount is excessive or arbitrary, it is not revisable under Article 227 of the Constitution of India. It is the duty of the husband to find appropriate resource to comply with the order of the Court and I am not inclined to admit the revision.

9. At this stage Mr.P.Jagadeeswaran, learned counsel for the Revision Petitioner would plead that if sufficient time is granted to the Revision Petitioner/husband, he will clear the arrears.

10. I am inclined to grant him time. Four weeks time is granted to clear the arrears. The revision petitioner/husband's liability to pay the monthly maintenance to the respondent shall continue month on month.

11. In the result, the Civil Revision Petition stands dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

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Speaking / Non Speaking order

Index : Yes / No

Neutral Citation: Yes/No

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V.LAKSHMINARAYANAN, J.

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To

The Principal Subordinate Judge,
Ponneri.

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