



C.R.P.(NPD) No.2826 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD) No.2826 of 2024

AND

C.M.P.No.15016 of 2024

Ragupathi

... Petitioner

Vs

Elavarasi

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 21.04.2022 passed by the learned Sub Judge, Harur, Salem District, in I.A.No.18 of 2019 in H.M.O.P.No.150 of 2018 (21 of 2023).

For Petitioner : Mr.M.Arun
for M/s.Karan and Uday

ORDER

This civil revision petition arise against the order dated 21.04.2022 passed by the learned Sub Judge, Harur, in I.A.No.18 of 2019 in H.M.O.P.No.



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150 of 2018.

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2. There is no dispute in the relationship between the parties. The civil revision petitioner is the husband and the respondent is his wife. Both of them entered into matrimony on 13.03.2005. From the said wedlock, they were blessed with two children.

3. Alleging that his wife had deserted him on 01.02.2018, the petitioner has presented H.M.O.P.No.245 of 2018 on the file of the Sub Court, Omalur. Subsequently, on creation of the new Court at Harur, the said proceeding has been transferred to the Sub Court, Harur and has been renumbered as H.M.O.P.No.98 of 2020.

4. The wife pleads that since her husband is not maintaining her, she took out an application in I.A.No.18 of 2019, for grant of interim maintenance at a sum of Rs.8,000/- and litigation expenses of Rs.15,000/-. After receipt of the counter from the husband, the learned Sub Judge, Harur, allowed the application as prayed for by order dated 21.04.2022, against which, this revision has been filed.



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5. Heard Mr.Arun, learned counsel for the civil revision petitioner.

6. Mr.Arun would submit that the revision petitioner/husband is in the business of weaving mats and is not making sufficient income to pay the maintenance. Therefore, it requires that the revision be admitted and interim stay be granted.

7. A perusal of the impugned order shows that the learned Sub Judge, Harur, in terms of the directions given by the Supreme Court in ***Rajesh Vs. Neha (Crl.A.No.730 of 2020 decided on 04.11.2020)***, had called upon the husband and wife to give the affidavit of assets and liabilities. The husband taking a clever approach filed an affidavit, but, did not disclose his income at all. Therefore, the Court had no other option, than to proceed as per the averments in the petition.

8. It is also pertinent to point out that the husband did not take the opportunity to enter the witness box and substantiate the plea that he is not making sufficient income as stated by the respondent/wife. By not utilising the opportunity at Harur, I am not inclined to permit the husband to rectify the same at Chennai. Further, the learned Judge has passed an order with the available



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materials and I am not in a position to take any exception to the same. The scope of revision under Article 227 for maintenance is limited. Unless and until the maintenance fixed is arbitrary and capricious, it is not liable to be interfered with. A sum of Rs.8,000/- which works around Rs.300/- per day, cannot be said to be arbitrary and capricious. In fact, it is only a bare minimum living that the respondent/wife will have, in case she receives this amount. Therefore, I am not inclined to admit this revision and accordingly, this revision stands dismissed. No costs. Connected C.M.P. is closed.

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Index : Yes/No

Neutral Citation : Yes/No



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The Sub Court
Harur, Salem District



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V.LAKSHMINARAYANAN, J.

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