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C.R.P.No.2498 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2498 of 2024
and C.M.P.No.13136 of 2024

Aarti Bijlani

... Petitioner

Vs

Ramchand Asrani Vikram

... Respondent

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 22.03.2024 made in I.A.No.2 of 2022 in O.P.No.1538 of 2018 on the file of II Additional Principal Judge, Family Court, Chennai.

For Petitioner : Mr.M.K.Kabir
Senior Counsel
for Mr.T.Jayaraman

For Respondent : Mr.A.Manojkumar, Caveator for R1

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ORDER

The petitioner is the estranged wife of the respondent. The respondent/husband filed a divorce Petition in O.P.No.1538 of 2018, in which the petitioner/wife filed Interim Maintenance Application in I.A.No.2 of 2022, which was dismissed by order dated 22.03.2024 on the ground that the petitioner/wife is a working partner and earning monthly income of Rs.45,000/-, against which the present Civil Revision Petition.

2. The learned Senior counsel appearing for the petitioner submitted that the order on the face of it erroneous, ought to be set aside and the matter to be remitted back for the reason, in paragraph 10 of the impugned order, the name of the employer, designation and monthly income and other particulars is the extract of assets and liability statement found in Serial No.(F) of the respondent/husband in I.A.No.5054 of 2018 and not that of the petitioner, in serial No.(F) of the petitioner's assets and liability statement, it is clearly stated that the

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petitioner “Not Employed”, hence, not applicable. In view of the above, the order passed by the Trial Court referring to the assets and liability of the husband and dismissing the petition to be set aside and remand the matter back for fresh consideration.

3. The learned counsel appearing for the respondent and the respondent are present before this Court, not seriously disputed the fact, they also admit that error committed by the Trial Court. The Lower Court mistakenly taken the particulars of the respondent and placed its finding and dismissed the petition. Hence, the order can be set aside and the matter to be remanded back for fresh consideration.

4. On the submissions made by the learned counsel appearing on either side and perusal of the materials placed on record, it is seen that the assets and liability of both the petitioner and the respondent perused, the assets and liability column (F), the petitioner clearly mentioned that she is not employed and in the asset and liability of the respondent/husband, it is mentioned that he is a working partner in

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Ramchand Asrani & Sons, his designation is Working Partner and his monthly income is Rs.45,000/-. The income particular of the respondent/husband is reflected in the impugned order and the Lower Court dismissed the interim maintenance application, which is not proper and an erroneous order passed.

5. In view of the same, this Court is inclined to set aside the impugned order in I.A.No.2 of 2022, dated 22.03.2024, and II Additional Principal Family Court, Chennai to hear I.A.No.2 of 2022, afresh, giving opportunity to both parties and pass orders on merits and in accordance with law.

6. Accordingly this Civil Revision Petition is allowed. However, there shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

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M.NIRMAL KUMAR,J.

Pbn

To

The Additional Principal Court - II,
Family Court, Chennai.

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