



WEB COPY



C.R.P.(PD).No.2537 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2024

CORAM

THE HON'BLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.2537 of 2024
and C.M.P.No.13300 of 2024

Rajeshwari

... Petitioner

-Versus-

Senthilkumar

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 22.12.2023 passed in I.A.No.1 of 2022 in H.M.O.P.No.37 of 2021 on the file of the Court of the Subordinate Judge, Gudalur, The Nilgiris.

For the Petitioner : Mr.J.Franklin

For the Respondent : Mr.V.Sakkarapani

ORDER

This Civil Revision Petition arises against the order dated 22.12.2023 passed by the learned Subordinate Judge, Gudalur, The Nilgiris in I.A.No.1 of 2022 in H.M.O.P.No.37 of 2021.



C.R.P.(PD).No.2537 of 2024

2. H.M.O.P.No.89 of 2021 was preferred before the Subordinate Judge, Trichy, by the husband seeking for divorce under Section 13 (1) (i-b) of the Hindu Marriage Act. The wife had initiated H.M.O.P.No.28 of 2021 on the file of the Subordinate Court, Gudalur, for restitution of conjugal rights. By an order of this Court, the proceedings in H.M.O.P.No.89 of 2021 was transferred from file of the Subordinate Judge, Trichy to the file of the Sub Court at Gudalur, be heard and disposed of along with the restitution of conjugal rights petition. On such transfer, H.M.O.P.No.89 of 2021 was re-numbered as H.M.O.P.No.37 of 2021.

3. The wife pleading that she is unable to maintain herself took out an application for interim maintenance, invoking Section 24 of the Hindu Marriage Act. She sought for Rs.50,000/- towards legal expenses and Rs.40,000/- towards interim maintenance. It is her plea that the respondent-husband is working in M/s Ford Motors as Senior Financial Analyst and is drawing about Rs.1,45,000/- per month. She would plead that though she is a B.E., graduate, post her wedding, she had to resign her job and was totally dependent on her husband for her living. She would state that the husband is having lot of properties and that her father- in- law is a leading businessman in Trichy. Therefore, she sought for the aforesaid relief.



C.R.P.(PD).No.2537 of 2024

WEB COPY

4. The husband entered appearance and also filed his counter. He would accept that the petitioner and the respondent had entered into the matrimony on 18.08.2011 and that from the wedlock, a female child was born on 30.10.2012. He would state that the house in which the wife and daughter are residing belongs to him and that he is making only Rs.1,10,000/- per month and not Rs.1,45,000/- as pleaded by the petitioner – wife.

5. As directed by the Supreme Court, in ***Rajnish Vs. Neha and Another*** ((2021) 2 Supreme Court Cases 324), both the husband and wife filed their respective affidavit of assets and liabilities. The learned Judge came to the conclusion that the husband is earning a sum of Rs.1,10,000/- and that he is taking care of his parents and therefore, he granted maintenance of Rs.15,000/- to the wife and daughter and Rs.5,000/- towards litigation expenses, against which the present Civil Revision Petition.

6. Feeling aggrieved over the amount fixed as interim maintenance, the wife is on revision before me.

7. On 19.07.2024, notice had been ordered to the respondent.



C.R.P.(PD).No.2537 of 2024

WEB COPY 8. Mr.J.Franklin appears for the Civil Revision Petitioner and Mr.V.Sakkarapani, appears for the respondent.

9. Mr.J.Franklin would plead that the husband is making a sum of Rs.1,10,000/- and an amount of Rs.15,000/- as interim maintenance is extremely low. He would point out that the girl child is aged about 11 years old today and she is studying at Chennai and all the expenses have been borne by the petitioner – wife.

10. Per contra, Mr.V.Sakkarapani, would submit that in addition to taking care of his aged parents, the respondent is also taking care of his sister, who is studying in 1st year Engineering College. He would plead that the house in which the petitioner – wife and daughter are residing is belongs to him, which constrained him to take another loan, in order to purchase another house. He would plead that the amount of Rs.15,000/- is very reasonable and does not require any modification.

11. I have carefully considered the arguments of either side.



12. It is not in dispute that the husband is working in a multi national institution as seen from the affidavit of assets filed by him on 22.02.2023. He would plead that his take home salary is Rs.1,10,000/-.

13. The test for grant of maintenance as settled by the Delhi High Court in ***Bharat Hegde Vs. Saroj Hegde*** ((2007) SCC OnLine Del 622, is that the wife and child would be entitled to be maintained in the same status as they would have been continued to live in the house of the husband. The husband admittedly earning Rs.1,10,000/- and a sum of Rs.15,000/- per month towards wife and child which approximately works out to Rs.7,500/- per head is extremely low. More so, the wife and child are residing in Chennai. The wife, though a graduate, is not making any income. Obviously she would be dependent entirely either on her parents or some such support from her relatives. Since the wife is residing in the property belongs to the husband, offset has to be given for that aspect while fixing the maintenance.

14. Therefore, I am of the view, if the interim maintenance is enhanced to Rs.30,000/- per month instead of Rs.15,000/- it would be in the interest of justice. Interim maintenance shall be paid from the date of filing of the H.M.O.P.No.28 of 2021, i.e., from 16.06.2021 onwards.



C.R.P.(PD).No.2537 of 2024

15. In fine, the Civil Revision Petition stands allowed. The interim maintenance is enhanced from Rs.15,000/- to Rs.30,000/- per month. Arrears shall be cleared within a period of 12 weeks from the date of receipt of a copy of this order. The husband shall also pay the educational expenses for the child, on production of the receipts issued by the School/College. The learned Subordinate Judge, Gudalur, the Nilgiris, is requested to verify whether the arrears have been cleared and once he is satisfied it has been so done, he shall dispose of the H.M.O.P.Nos.37 of 2021 and 28 of 2021 as expeditiously as possible. No costs. Consequently, the connected miscellaneous petition is closed.

19.08.2024

Jer

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
Speaking / Non Speaking Order

To

The Subordinate Judge, Gudalur, The Nilgiris.



WEB COPY



C.R.P.(PD).No.2537 of 2024

V.LAKSHMINARAYANAN, J.,
Jer

C.R.P.(PD).No.2537 of 2024
and C.M.P.No.13300 of 2024

19.08.2024