



WEB COPY



C.R.P.(PD)No.2555 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.12.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.2555 of 2024
and C.M.P.No.13418 of 2024

1.Archana
2.Minor Prajen
(Minor represented by mother Archana) .. Petitioners

Vs

Durairaj .. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 04.04.2024 made in F.C.I.A.No.14 of 2024 in F.C.I.A.No.3 of 2023 in F.C.O.P.No.209 of 2022 on the file of the Family Court at Chengalpet.

For Petitioners : Mr.M.Prakash
For Respondent : Mr.K.Karthik

ORDER

This civil revision petition arises against the order of the learned Family Judge at Chengalpet in FCIA No.14 of 2024 in FCIA No.3 of 2023 in F.C.O.P.No.209 of 2022 dated 04.04.2024.



C.R.P.(PD)No.2555 of 2024

WEB COPY

2. The civil revision petitioners are the petitioners in FCIA No.14 of 2024. There is no dispute in the relationship between the parties. The 1st petitioner married the sole respondent on 12.03.2020 at Guduvancherry. From the wedlock, the 2nd petitioner was born. Due to disputes and differences, the parties have separated.

3. The respondent initiated F.C.O.P.No.209 of 2022 seeking for divorce on the grounds of cruelty. The wife has entered appearance. Soon thereafter, she filed an application in F.C.I.A.No.3 of 2023 seeking for interim maintenance of Rs.20,000/- per month for herself and her child and a further sum of Rs.10,000/- towards litigation expenses. This application was resisted by the husband by stating that he is earning only a sum of Rs.15,000/- per month. He had added that the wife is generating income by selling tender coconuts and also by lending money at high interest rates to third parties.

4. The learned Trial Judge, on appreciation of the evidence, came to a conclusion that the salary of the husband is Rs.15,000/- per month and that there is no proof that the wife is doing finance business or any



C.R.P.(PD)No.2555 of 2024

other business. Therefore, the learned Judge concluded that a sum of Rs.5,000/- per month would be sufficient for the wife to maintain herself.

5. It is not in dispute that the husband has been complying with the said order without any default.

6. Subsequently, the petitioners herein filed F.C.I.A.No.14 of 2024 seeking enhancement of this amount. The wife pleaded on account of the dispute between the 1st petitioner and her sister-in-law (brother's wife), she had to move away from her parental home. She pleaded that she is staying separately and is not in a position to bear the expenses of herself and her child. Hence, she sought for enhancement of maintenance from Rs.5,000/- as fixed by the Court to Rs.15,000/-. She wanted Rs.10,000/- for herself and Rs.5,000/- for the minor child. This application was resisted by the husband stating that she is indulging in tender coconut business, money lending business etc.

7. The learned Trial Judge came to the conclusion that a sum of Rs.5,000/- ordered is more than sufficient for the wife & child and therefore, dismissed the petition. Hence, this revision.



C.R.P.(PD)No.2555 of 2024

8. I heard Mr.M.Prakash for the civil revision petitioners and Mr.K.Karthik for the respondent.

9. The narration of the facts goes to show that the husband, who originally pleaded that he was making only Rs.10,000/- per month. During the course of enquiry, he conceded that he is earning about Rs.15,000/- per month. Though Mr.M.Prakash pleads that the husband is getting additional amounts by rental income, the proof has not been let in before the learned Trial Judge. Hence, I am not inclined to consider the same.

10.The learned Trial Judge has fixed Rs.5,000/- per month, when the child was about two years old. She has not taken into consideration that as the child grows older, the expenses would also increase. It is for that purpose that the power has been vested with the Court to modify interim maintenance orders, when changed circumstances are pleaded, before the Court.

11.The 1st civil revision petitioner has specifically pleaded that on account of the fact she has moved out from her parental home, she is



C.R.P.(PD)No.2555 of 2024

facing a hard situation physically as well as financially. Had she continued to live with the respondent/husband, she would not have faced this subsequent hardship.

12.At the same time, I have to consider the limited income that the husband is generating. The plea of Mr.M.Prakash that the wife must be given Rs.10,000/- per month would hardly leave a sum of Rs.5,000/- in the hands of the husband. Such an order would be extremely harsh on the husband.

13.Therefore, while I am inclined to revise the order passed by the Trial Court, I am restricting the maintenance granted to an additional amount of Rs.2,500/-. In other words, the mother will be entitled to Rs.5,000/- per month as ordered by the Court in F.C.I.A.No.3 of 2023 and an additional amount of Rs.2,500/- per month is ordered for the 2nd petitioner minor child. The liability of the father to pay the additional amount of Rs.2,500/- per month will commence not from the date of the original order passed in F.C.I.A. No.3 of 2023, but from April 2024.



C.R.P.(PD)No.2555 of 2024

14. With the above directions, the civil revision petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10.12.2024

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

kj

To

The Family Court at Chengalpet.



WEB COPY



C.R.P.(PD)No.2555 of 2024

V. LAKSHMINARAYANAN,J.

Kj

C.R.P.(PD)No.2555 of 2024
and C.M.P.No.13418 of 2024

10.12.2024