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C.R.P.(PD).No. 2958 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

CORAM

**THE HONOURABLE Mr. JUSTICE**

**V.LAKSHMINARAYANAN**

**C.R.P.(PD).No. 2958 of 2024**

**&**

**C.M.P. No. 15818 of 2024**

Bishal Sinha

...Petitioner

Vs.

Tanvi Bhushan

...Respondent

**Prayer:** Civil Revision Petition is filed under Section 227 of the Constitution of India against the order passed by VI Additional Principal Family Court, I.A.No.7 of 2023 in O.P.No.1610 of 2021.

For Petitioner : Mr. M.Vijay Anand



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C.R.P.(PD).No. 2958 of 2024

## **ORDER**

This Civil Revision Petition arises against the order passed by the VI Additional Judge, Chennai in I.A.No.7 of 2023 in H.M.O.P.No.1601 of 2021. The husband is the civil revision petitioner.

2. H.M.O.P.No.1610 of 2021 has been filed by the respondent / wife seeking dissolution of marriage under Section 13 (1) (ia) and 13 (1) (ib) of the Hindu Marriage Act and for permanent alimony under Section 25 of the said Act. The petitioner and the respondent married each other on 26.01.2017 in the state of Jharkhand. The petitioner / husband has B.E. in Mechanical Engineering and has secured Post Graduate qualification in Masters of Business Management and thereafter gone to the United States of America (USA) and successfully secured degree in Masters of Science in Engineering. At



the time of marriage the petitioner / husband was working at Tampa, Florida as Software Engineering. Considering the qualification of the petitioner, the respondent / wife agreed to marry him. In so far as this petition is concerned the main allegations in the petitions are not being considered and it is for the learned Trial Judge to deal with those issues at the time of trial. Suffice it to say that the husband has also filed a counter denying the allegations.

3. Pleading that she is unable to maintain herself, the wife has taken out an application in I.A.No.7 of 2023 under Section 24 of the Hindu Marriage Act. She sought for maintenance at the rate of Rs.1,00,000/- per month and for Rs.15,00,000/- towards medical expenses and Rs.2,00,000/- for litigation expenses. The reason she sought for Rs.15,00,000/- towards medical expenses was because she is admittedly a cancer survivor. The learned Judge ordered notice in the application to the respondent. The respondent who is staying in USA, appointed his father who is resident of Howarah, West Bengal,



C.R.P.(PD).No. 2958 of 2024

to conduct litigation on his behalf.

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4. A perusal of the dates as provided by Mr.Vijay Anand, would show that the power of attorney petition was ordered on 24.11.2022. The ex parte order which was originally passed against the petitioner / husband was also set aside by the Court. Thereafter, the interim maintenance application was adjourned from 26.09.2023 till 26.04.2024. On none of those dates, a counter was filed by the petitioner / husband. Therefore, on 01.04.2024, the husband was set ex parte and the learned Judge allowed the petition on 21.05.2024. Against which the present civil revision petition.

5. The learned Judge taking into consideration the status of the parties had ordered an interim maintenance of Rs.40,000/- per month from the date of the filing of the petition, namely, 26.06.2023. He did



not grant any relief towards medical expenses of the wife nor did he grant any litigation expenses. Feeling aggrieved by the order the husband is before this Court.

6. Heard Mr. M.Vijay Anand for the civil revision petitioner.

The learned counsel would submit as follows:

*(i)The respondent and the petitioner did not even consummate the marriage as the wife refused any physical relationship with the petitioner.*

*(ii)The wife voluntarily left the petitioner in America and came to India and therefore she is not entitled for any interim maintenance.*

*(iii)The wife has suppressed her illness of cancer at the time of marriage and therefore the very petition for divorce filed at the instance of wife is motivated.*

*(iv)The husband is unemployed and is living on the charity of another person, with whom he is staying.*

*(v)Further, the father of the petitioner had attempted to file an affidavit of asset and liabilities of the*



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C.R.P.(PD).No. 2958 of 2027

*petitioner and that had not been accepted by the Court.*

*(vi) The amount of Rs.40,000/- is excessive and therefore requires interference.*

7. I have carefully considered the arguments of Mr. M.Vijay Anand and gone through the records.

8. An application under Section 24 of the Hindu Marriage Act is not predicated on the ground that the wife left the matrimonial home without any reasonable cause. The contention of the wife to allow Section 24 application is that she has no independent income to support herself and the necessary expenses of the proceedings. It is not pleaded by the husband that the wife is gainfully employed. Even if the wife is employed, if she is not able to sustain herself, in the same status as in the matrimonial home, she would be entitled to maintenance. Therefore, the statement that the wife did not consummate the marriage on account of illness or deliberately kept herself away from United States of America from the company of the



husband is absolutely irrelevant for the purpose of Section 24 of the Act. The Parliament which drafted Section 125 Cr.P.C., and other statutes relating to maintenance was extremely careful when it comes to Section 24 of the Hindu Marriage Act by not including the words “*reasonable cause*”.

9. Even if there is a strong possibility of the petition for divorce filed by the wife to be dismissed it is irrelevant for the purpose of Section 24. The maintenance is granted by the Court not on account of charity but in order to enable the wife to survive litigation and contest it. The husband, who is in America, is obviously not appearing before the Court in person. Whereas the wife would necessarily have to do so. In addition, the idea of granting maintenance to the wife, who is a cancer survivor, is to ensure that she lives in the same social status as she would have if she had continued in the matrimonial home. See, ***Bharat Hegde Vs. Saroj Hegde*** –



**2007 SCC Online Del 622.**

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10. Apart from that, the scope of revision under Article 227 of the Constitution of India in matters arising against interim maintenance is extremely limited. The Court can interfere with the quantum of maintenance if it finds the amount that has been fixed by the Court is excessive, arbitrary or capricious. I do not find any of those vires existing in the order. The amount of Rs.40,000/- when converted works out to be around 500 USD. The petitioner / husband who is a highly qualified individual in mechanical and computer engineering cannot plead that he is unable to generate 500 USD for the maintenance of his wife, who is suffering from cancer, which absolutely requires a lot of expenditure. I do not find any reason to interfere with the order of the learned VI Additional Family Judge, Chennai.

11. At this stage Mr.M.Vijay Anand, learned counsel would



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C.R.P.(PD).No. 2958 of 2024

submit that he has filed an application before the Trial Court seeking appearance through Video Conferencing. The VI Additional Family Judge, Chennai is requested to dispose of the said application on its own merits uninfluenced by any of the observations made in this order.

12. In the result, the Civil Revision petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

**09.08.2024**

Index : Yes/No  
Internet : Yes/No  
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To

The VI Additional Family Judge,  
Chennai.



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C.R.P.(PD).No. 2958 of 2024

**V.LAKSHMINARAYANAN, J.**

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C.R.P.(PD).No. 2958 of 2024

**C.R.P.(PD).No. 2958 of 2024**

**09.08.2024**