



C.R.P.(PD).No. 3327 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2024

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THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No. 3327 of 2024

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C.M.P.No. 17832 of 2024

S.Sivasubramaniam

...Petitioner

Vs.

N.V.Sathianayagi

...Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and final order passed in I.A.No.1 of 2019 in H.M.O.P.No.1346 of 2018 on the file of the Additional Principal Family Court, Coimbatore dated 10.01.2022.

For Petitioner : Mr. B.Kumarasamy



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ORDER

This Civil Revision Petition arises against the order passed by the Additional Principal Family Court, Coimbatore in I.A.No.1 of 2019 in H.M.O.P.No.1346 of 2018 dated 10.01.2022.

2. Originally the husband preferred C.M.A.No.905 of 2022 before this Court. The said appeal was dismissed following the Judgement in *S.Menaka Vs. K.S.K.Nepolian Socraties and other – 2024 Live Law (Mad) 126*, holding that no appeal is maintainable against interim orders of maintenance and the remedy is only by way of revision. After the dismissal of the Civil Miscellaneous Appeal on 26.03.2024, the husband has presented the present Civil Revision Petition, challenging the very same order.

3. There is no dispute in the relationship between the parties. The Civil Revision Petitioner is the husband and the respondent herein is the wife. They married each other on 28.11.2014 and set up their



matrimonial home at Coimbatore. Due to disputes and differences between family, the parties have separated and are before the Court in H.M.O.P.No.1346 of 2018. The divorce proceedings had been initiated by the husband.

4. Pending litigation, the wife filed an application under Section 24 of the Hindu Marriage Act. The wife wanted a sum of Rs.20,000/- as interim maintenance and a sum of Rs.25,000/- as litigation expenses. This application was received and numbered as I.A.No.1 of 2019. Notice was issued to the husband who filed a detailed counter. The plea of the wife before the Family Court was that she has lost her father and is not in a position to maintain herself. The wife would point out that the petitioner husband is working as a Senior Lecturer in the famous PSG College of Technology, Coimbatore and is drawing a salary of about Rs.70,000/- per month.

5. The wife would allege that her husband has several immovable properties and since she is not able to maintain herself, she sought for



the said relief. Her categoric case that from June 2018, the husband is not maintaining her.

6. The respondent husband filed a counter pleading that the wife is working as a Teacher in the Kendriya Vidyalaya at Sulur and is drawing about Rs.25,000/- per month. Therefore, the husband would state that the wife has uttered falsehood and hence he need not be mulcted with the cost of maintaining her.

7. During the course of Trial, the Principal of Kendriya Vidyalaya, Sulur was examined as R.W.1. He had clearly deposed before the Trial Court that the wife is being appointed only on leave vacancy, that is to say that only when the regular teachers go on leave. He would also point out that the pay is consolidated pay and that the wife does not have any legal right to claim an employment with Kendriya Vidyalaya.



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8. The learned Judge after consideration of all the evidence came to the conclusion that the wife is working only on leave vacancy and since the husband is earning a monthly net income of Rs.44,395/-, he felt that that directing the husband to pay a sum of Rs.10,000/- would be in the interest of justice. Hence, this revision.

9. Mr.B.Kumarasamy, would argue that the amount of Rs.10,000/- that has been fixed is excessive and the learned Trial Judge ought to have taken into consideration the fact that the wife is working in Kendriya Vidyalaya as a Teacher. He would also point out that pending C.M.A.No.905 of 2022, the husband had paid a sum of Rs.1,75,000/- to the respondent wife. Therefore, he would plead that the order requires interference of this Court.

10. I have carefully considered the arguments of the learned counsel.



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11. From a perusal of pleadings and arguments, the following facts emerges:

(1)The marriage between the parties is admitted.

(2)The parties are living separately.

(3)The father-in-law of the civil revision petitioner is no more.

(4)The civil revision petitioner is working as senior lecturer in PSG College of Technology, Coimbatore and drawing a net income of Rs.44,395/-.

12. The learned Trial Judge taking into consideration the aforesaid facts has only fixed 1/3rd of the salary of the civil revision petitioner as maintenance to the wife. The learned Judge has also considered the fact that the petitioner is spending Rs.13,000/- on his parents. The fact that the wife is capable of earning income does not mean that she is not entitled to maintenance. Under Section 24 of the Hindu Marriage Act, she has to show to the Court that the money she



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receives is not sufficient to maintain herself and that has been factually gone into by the learned Trial Judge.

13. I do not find any reason to interfere with the said finding. Further more, a sum of Rs.10,000/- per month for a person who is earning about Rs.40,000/- is not arbitrary, capricious or excessive.

14. Accordingly, the Civil Revision Petition is dismissed. Consequently, the connected Civil Miscellaneous Petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
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To

The Additional Principal Family Judge,
Coimbatore.



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V.LAKSHMINARAYANAN, J.

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