



C.R.P. (PD). No. 3607 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2024

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THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P. (PD). No. 3607 of 2024

&

C.M.P.No.19592 of 2024

Thangaraj

...Petitioner

Vs.

1.A.Jenifer

2.Master.Kishanth

...Respondents

Prayer: Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 20.05.2024 passed in I.A.No.2 of 2023 in H.M.O.P.No.3326 of 2023 on the file of the V Additional Principal Family Court, Chennai.

For Petitioner : Mr. P.Manikannan



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ORDER

This Civil Revision Petition arises from the order of the learned V Additional Principal Family Judge, Chennai, in I.A.No.2 of 2023 in H.M.O.P.No.3326 of 2023.

2. H.M.O.P.No.3326 of 2023 has been initiated by the husband seeking divorce. The petitioner married the 1st respondent on 25.04.2021. From the wedlock, a child was born. Unfortunately, the child suffers from neurological problems resulting in epilepsy. The child is said to be taking treatment in the Government Stanley Medical College, Chennai. Since dispute and difference arose, the respondent wife moved out of matrimonial home and is staying with her mother at Ponneri along with the child. She pleads as the proceedings have been initiated at Chennai, she is forced to spend Rs.2,000/- to travel from Ponneri to Chennai to contest matter.



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3. The wife would plead that it takes not less than Rs.20,000/- per month for addressing the health issues that are being faced by the child. Therefore, she has moved an application in I.A.No.2 of 2023 stating that the husband has to give her maintenance of Rs.50,000/-.

4. The husband admitted to the relationship and to birth of the child in counter. He would state that he is working as a potter in his father's business and is not making any substantial income other than Rs.7,000/-. The learned Judge after considering the respective cases, ordered the payment of Rs.10,000/- to the wife and Rs.8,000/- to the son. Hence, this revision.

5. Heard, Mr.P.Manikannan for the civil revision petitioner.

6. Mr. P.Manikannan would draw my attention to the affidavit of assets and liabilities filed by the petitioner to plead that he is making



Rs.7,000/- per month, which is hardly sufficient to maintain himself.

Therefore, the petitioner is not in a position to pay the fixed amount.

7. Insofar as the duty of the husband to maintain the wife is concerned, Section 24 of the Hindu Marriage Act states that it is the sacrosanct duty of the husband. In ***Rajnesh vs Neha and another - AIR 2021 (SC) 569***, the Supreme Court held that irrespective of the fact that the wife is generating income or not, it is the duty of the husband to maintain the wife. Apart from that, in this case, there is a child suffering from Neurological disease and the mother has to bring the child for treatment from Ponneri to Chennai.

8. The wife would plead that the husband is generating income by driving Auto. Mr. P.Manikannan would contend that it is a false statement. He states at one point in time, the husband was driving Auto but today he is making his livelihood as a potter. The fact remains that the relationship has been admitted and there is a child who has severe health issues. The amount fixed by the Trial Court as maintenance is



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less than the amount spent by the mother towards addressing health issues of the child, month on month.

9. I do not find any reason to interfere with the order. The Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
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To

The V Additional Principal Family Court,
Chennai.



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V.LAKSHMINARAYANAN, J.

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