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C.R.P.(PD).No.3629 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.3629 of 2024
and C.M.P.No.19724 of 2024

Harishkumar

.. Petitioner

Versus

Madhu Meena

.. Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 19.07.2024 passed in I.A.No.3 of 2024 in O.P.No.2270 of 2022 on the file of the I Additional Family Court at Chennai.

For Petitioner : Ms.A.Vinupradha

For Respondent : M.Serfuddin Ali Ahmed

ORDER

The civil revision petitioner is the husband. He is challenging an order passed by the I Additional Family Court at Chennai in I.A.No.3 of 2024 in H.M.O.P.No.2270 of 2022, dated 19.07.2024.



C.R.P.(PD).No.3629 of 2024

WEB COPY

2. H.M.O.P.No.2270 of 2022 was initiated by the petitioner seeking for divorce. He has invoked the petition under Section 13(1)(i-a) of the Hindu Marriage Act, 1955. The petitioner married the respondent on 11.06.2014. From the wedlock, a child as born on 23.10.2014. The child is aged 9 years as on today. The petitioner and the respondent separated in the year 2019. The petitioner/husband initiated proceedings for divorce. A detailed counter-statement was filed by the respondent/wife. She pleads that the husband never looked after the child and she has been fending for herself and her child. She would add that she is residing in her parents' house and is making a living by playing small roles in Youtube and in tele-serials. I am not, in this revision, concerned with the maintenance that the wife would be entitled to.

3. A Maintenance Petition was filed seeking for a direction to the petitioner to pay school fees of the child. The respondent stated that the child is now studying at American World School at Perungudi, Chennai. The respondent produced certificates before the Court to show that the school has been demanding fees for continuance of the education of the child. Pleading that she is not in a position to pay the said amount, she took



C.R.P.(PD).No.3629 of 2024

WEB COPY

out an application in I.A.No.3 of 2024 for a direction to the petitioner/husband to pay a sum of Rs.1,95,000/- for the shelter, medical and other expenses of the child.

4. The petitioner filed a counter stating that it was the wife who deserted him and shifted the child voluntarily from a Matriculation School he was studying in, to the American World School. He would state that his monthly income is only Rs.75,000/- per month. Since he has undergone an operation for Anal Fistula, hence, he is not in a position to pay the maintenance.

5. The learned Trial Judge, on consideration of the income of the petitioner, came to a conclusion that the petitioner is liable to pay a sum of Rs.1,75,000/- towards educational expenses and medical expenses of the child. Challenging the same, this Civil Revision Petition has been presented.

6. Heard Ms.A.Vinupradha, learned Counsel for the civil revision petitioner and Mr.Serfuddin Ali Ahmed, learned Counsel for the respondent.



C.R.P.(PD).No.3629 of 2024

WEB COPY

7. In the case of ***Rajnesh Vs. Neha and Anr., (2021) 2 SCC 324***, the Supreme Court, in clear and categorical terms, held that it is the duty of the husband to maintain his wife and child. The Court held that it is the sacrosanct duty of the husband that he is discharging while maintaining both of them. It is not in dispute that the child is studying in the American World School at Perungudi, Chennai. It is also not in dispute that the school sent e-mails to the mother calling upon her to pay the fees, in default, the school stated that the child cannot continue his education in the institution. A verification of the income tax records of the husband would show that the husband is earning a sizable income to a tune of Rs.23,92,718/- for the Assessment Year 2023-2024. It is the case of the petitioner himself that he is making a sum of Rs.75,000/- per month. The wife literally, being at wit's end, moved the application, as she pleads that she is not in a position to pay the fees as demanded by the school, on 30.05.2024.

8. Ms.A.Vinupradha would argue that the father is willing to get admission for the child in a school, which is demanding lesser fees, and it is the mother who is not agreeable to the same. It is the wish of every parent



C.R.P.(PD).No.3629 of 2024

WEB COPY

that the child gets the best education. The mother, as she is having custody of the child, wants to educate the child in a good institution namely, the American World School. It also seems to be closer to the house of the respondent than the school that has been suggested by the petitioner. Here is a case where the mother did not make demand for maintenance for herself and has only pleaded that the father, who is making only a sum of Rs.75,000/-, to pay the school fees alone. With the current cost of living, to pay a sum of Rs.1,75,000/- towards school fees, when the father is making lakhs of rupees income, cannot be called excessive or arbitrary. The learned Trial Judge gave cogent reasons for arriving at the conclusion in allowing the petition in part. I have no reasons to interfere with the same.

9. This Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.09.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs



C.R.P.(PD).No.3629 of 2024

To
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The I Additional Family Court,
Chennai.



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C.R.P.(PD).No.3629 of 2024

V.LAKSHMINARAYANAN, J.

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C.R.P.(PD).No.3629 of 2024
and C.M.P.No.19724 of 2024

09.09.2024