



C.R.P.(PD).No.3634 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.09.2024

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THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.3634 of 2024

&

C.M.P.No.19765 of 2024

C.Bhuvaneswaran

...Petitioner

Vs.

S.Kowsalya

...Respondent

Prayer: Petition filed under Article 227 of the Constitution of India against the order dated 05.04.2024 passed in I.A.No.1 of 2021 in O.P.No.2494 of 2021 dated 05.04.2024 passed by the I Additional Principal Judge, Family Court, Chennai.

For Petitioner : Mr. P.Arumugam.

ORDER



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This Civil Revision Petition challenges the order passed by the I Additional Principal Judge, Family Court, Chennai, in I.A.No.1 of 2021 in O.P.No.2494 of 2021.

2. O.P.No.2494 of 2021 has been presented by the husband / civil revision petitioner invoking Section 13 (1) (i - a) of the Hindu Marriage Act. The petitioner married the respondent at Tirupathi on 19.10.2018. Thereafter, pleading that the wife had been inflicting continuous torture and harassment, they separated and the husband has initiated the aforesaid proceedings for divorce. The wife has filed a detailed counter denying the averments made by the husband.

3. Pending the litigation, unable to maintain herself the wife took out an application in I.A.No.1 of 2021 seeking interim maintenance of Rs.50,000/- per month and litigation expense of Rs.75,000/-. She would plead that she is not in a position to maintain herself and she cannot take care of her day to day expenses too. She would state that



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her husband is working in a private concern and drawing a handsome salary and has immovable properties worth about Rs.2,00,00,000/- in the city of Chennai.

4. Notice was issued in the application and the respondent / husband has filed a detailed counter. He would allege that the petitioner is having business under the name and style of “*Zwarma Heist*”, at Pudhur Ambattur and that she is making enough and more to maintain herself. He would plead that he is struggling to maintain day to day expenses and does not possess any immovable properties. The wife filed an affidavit of assets as directed by the Supreme Court in ***Rajnish vs Neha and another - AIR 2021 (SC) 569*** but the husband seems to have missed out the said opportunity.

5. The learned Trial Judge on the basis of the available evidence came to the conclusion that the husband is liable to pay a sum of Rs.15,000/- per month as maintenance and Rs.25,000/- as litigation expenses. Challenging the same, the present revision.



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6. Heard Mr. P.Arumugam for the civil revision petitioner / husband.

7. Mr. P.Arumugam would plead that the amount fixed by the Trial Court is unreasonable and the husband himself is struggling to take care of his mother with whom he is residing and that his mother is a cancer survivor. He would state that the respondent / wife is earning about Rs.75,000/- per month and the petition itself ruse in order to drag on the proceedings.

8. I have carefully considered the arguments of Mr. P.Arumugam and gone through the records.

9. It is the duty of the husband to maintain the wife. This duty is irrespective of the fact that the wife is capable of earning any amount. Under Section 24 of the Hindu Marriage Act, the wife pleads that she is unable to maintain herself. The wife has a right to file an application



under the said provision.

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10. The husband cannot plead that he is not generating any income and therefore not in a position to maintain the wife. The husband had lost his opportunity before the Trial Court to file an affidavit of assets and liabilities and produce his income tax records and other financial details, in order to convince the Court regarding his financial status. Therefore, the Court following the rule of thumb has only fixed a sum of Rs.15,000/- per month as interim maintenance to the wife.

11. It is not in dispute that the wife is residing in the city of Chennai. A sum of Rs.15,000/- per month towards maintenance converts to about Rs.500/- per day. It cannot be said to be excessive, exorbitant or capricious, for this Court to interfere under Article 227 of the Constitution of India. The duty of the husband being sacrosanct duty, I am not inclined to interfere with the well reasoned order.



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12. Accordingly, 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 I Additional Principal Judge,
Family Court,
Chennai.

V.LAKSHMINARAYANAN, J.



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