



C.R.P(NPD).No.3205 of 2022

WEB COPY

2. The petitioner and the respondent are husband and wife. The petitioner herein has filed a main petition under Section 13(1)(ia) of the Hindu Marriage Act, 1955, for granting divorce in H.M.O.P.No.87 of 2012 renumbered as H.M.O.P.No.26 of 2014. During the pendency of the petition, the respondent has filed interlocutory application in I.A.No.72 of 2013 under Section 24 of the Hindu Marriage Act, 1955, seeking maintenance of Rs.10,000/- per month and Rs.15,000/- towards costs of the proceedings. By order dated 26.03.2014, the trial Court has awarded a sum of Rs.4,000/- per month towards maintenance till the disposal of the main petition and Rs.10,000/- towards expenses for defending the proceedings.

3. Challenging the said order, the petitioner has filed the present Civil Revision Petition.

4. The case of the petitioner is that the marriage between the petitioner and the respondent took place on 22.10.2007. The respondent herein has filed the interlocutory application alleging that the petitioner herein neglected to maintain her and her female child, who is aged about 3 ½ years. Thereafter,



C.R.P(NPD).No.3205 of 2022

there was an Agreement entered into between the parties on 08.12.2011 and as per the Agreement, some properties (agricultural land) and a house was allotted to the respondent. Now, the respondent is cultivating the agricultural land and earning money. While so, she filed the interlocutory application for awarding maintenance and the same is liable to be dismissed.

5. The case of the respondent is that the petitioner neglected the respondent and the child. Already, as per the Agreement dated 08.12.2011, the petitioner allotted some properties and a house, where presently the respondent is residing and due to her mother's ill-health, she has to look after her mother and she is not in a position to look after the property and presently relying/living on the amount given from her paternal home. However, due to lack of labours, she is unable to look after the cultivation and estate. Also, the income from the property is very meagre and she is not in a position to run the family. The petitioner is a man of means and he is running travels at Coimbatore and earning a sum of Rs.30,000/- per month. Therefore, the respondent has filed the interlocutory application for maintenance.



WEB COPY

6. Before the trial Court, no oral or documentary evidence adduced on either side. The trial Court after hearing both sides, partly allowed the petition and allotted a sum of Rs.4,000/- per month towards maintenance (litigation expense) and Rs.10,000/- towards the costs of the proceedings.

7. Aggrieved by the said order, the present Civil Revision Petition is filed by the petitioner.

8. The learned counsel appearing for the petitioner would contend that already there was an Agreement between the parties dated 08.12.2011 and as per the Agreement, some of the properties and a house was allotted to the respondent and she is cultivating and earning money from the agricultural land and she also residing in the house, which was allotted to her through the said Agreement. Now, only to harass the petitioner, she filed the interlocutory application seeking maintenance. The trial Court failed to consider the properties given to her and she is earning money from those properties and whereby, the order passed by the trial Court is liable to be set aside.



C.R.P(NPD).No.3205 of 2022

WEB COPY

9. The learned counsel appearing for the respondent would contend that the respondent is residing along with her child and the petitioner neglected and failed to maintain the respondent and the child. It is true that there was an Agreement dated 08.12.2011 and as per the Agreement, some of the properties and a house was allotted to the respondent and she is presently residing in the said house. Due to her mother's ill-health, she has to look after her mother, who is residing at Kotagiri, Nilgiris District. Therefore, she is not in a position to look after the property and presently living with her mother. Due to lack of labours, she is not in a position of look after the cultivation process and income from the property is also very meagre and therefore, she has filed the interlocutory application and the trial Court has correctly awarded the amount of Rs.4,000/- towards maintenance and Rs.10,000/- towards expenses for defending the proceedings. Therefore, the order passed by the trial Court is in accordance with law and the present Civil Revision Petition has to be dismissed.

10. This Court heard both sides and perused the records.



C.R.P(NPD).No.3205 of 2022

WEB COPY

11. In the present case, there is no dispute in respect of the relationship of the parties and a female child was born to them and the child is now in the custody of the respondent herein.

12. It is also admitted fact that as per the Agreement dated 08.12.2011, some of the agricultural properties and the tea estate and a house was allotted to the respondent. The respondent along with her child are residing in the house allotted to her and she also has been cultivating the agricultural land and tea estate. But, according to the respondent, the income from those properties are very meagre and at present, due to ill-health of her mother, she went to Kotagiri, Nilgiris District and thereby, she is unable to maintain the properties and thereby, she claiming maintenance.

13. After elaborate arguments, the learned counsel appearing for the petitioner submitted that the petitioner agrees to pay the future maintenance as awarded by the trial Court if the respondent hand over the possession of the properties, which were given through Agreement dated 08.12.2011.



C.R.P(NPD).No.3205 of 2022

WEB COPY

14. The respondent has not agreed for the said proposal of the petitioner.

Since the respondent herself admitted that the petitioner as per Agreement dated 08.12.2011, allotted some agricultural land, house and tea estate to the respondent and her child and even now, she is in possession and enjoyment of the said property, the request of the petitioner is genuine.

15. Considering the above said submission of the learned counsel appearing for the petitioner and considering the facts and circumstances of the case, it is appropriate to direct the petitioner to pay a sum of Rs.1,50,000/- towards past maintenance and the respondent has to hand over the possession of the properties mentioned in the Agreement dated 08.12.2011, except the house, i.e., to hand over the tea estate and the agricultural land.

16. Therefore, this Civil Revision Petition is partly allowed by modifying the order of the trial Court to the effect that the petitioner has to pay a sum of Rs.1,50,000/- to the respondent towards the past maintenance and the respondent has to hand over the possession of the properties i.e., the tea estate and the agricultural land except the house allotted to her through an Agreement



C.R.P(NPD).No.3205 of 2022

dated 08.12.2011, within a period of three months from the date of receipt of a
copy of this order.

17. After handing over the possession of the properties, the petitioner is directed to pay a sum of Rs.4,000/- per month towards future maintenance till the disposal of the main H.M.O.P.No.87 of 2012 renumbered H.M.O.P.No.26 of 2014 as ordered by the trial Court.

18. With the above said directions and modifications, this Civil Revision Petition is ordered. No costs.

12.07.2024

Index : Yes / No

Internet : Yes / No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes / No

arb

To

The Sub Court,
Nilgiris at Udhagamandalam.



WEB COPY



C.R.P(NPD).No.3205 of 2022

P.DHANABAL, J.

arb

C.R.P(NPD).No.3205 of 2022

12.07.2024