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C.R.P. No. 3439 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2024

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THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P. No. 3439 of 2024

and

C.M.P. No. 18702 of 2024

K.Simmon William Kenneth ... Petitioner / Respondent / Petitioner

Vs.

Jemima Catherine ... Respondent / Petitioner / Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A. No. 1 of 2022 in O.P. No. 532 of 2022 dated 19.10.2023 on the file of the learned VI Additional Family Court at Chennai.

For Petitioner : Mr. A.Natarajan
Senior Counsel
assisted by Ms. A.Madhumathi

ORDER

The civil revision petition arises against the order of the VI Additional Family Court at Chennai in I.A. No. 1 of 2022 in O.P. No. 532 of 2022 dated 19.10.2023.



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2. O.P. No. 532 of 2022 has been presented invoking Section 10(1)(x) of the Indian Divorce Act, 1869, as amended in 2001. The petitioner and the respondent were married as per Christian rites and customs on 25.09.2019. From the wedlock, there are no children. Due to disputes and difference, the parties have separated.

3. The husband, pleading mental cruelty, has presented the aforesaid divorce petition.

4. On service of summons, the wife entered appearance and invoked Section 36 of the Indian Divorce Act, 1869. According to her, the husband is working in "SIEMENS International", a multi-national company in Bangalore, and is drawing a salary of more than Rs.1 lakh per month. She would also plead that he is the only son to his parents, who are in Government service and are well settled drawing good salary. She would state that she is unable to maintain herself, therefore, sought for monthly maintenance of Rs.30,000/- per month.



5. The husband entered appearance and filed a detailed counter. He would point out that the wife herself is an Engineering graduate and is taking classes for IELTS/TOFEL/PTE. He would state that she is earning a sizeable income from being a tutor as well as she is generating income from the properties which she possess.

6. The learned Trial Judge came to a conclusion that the wife is entitled to maintenance of Rs.10,000/- per month. Against which, the present revision.

7. Heard Mr. A.Natarajan, learned Senior Counsel for Ms. A.Madhumathi.

8. It is not in dispute that the husband is working in "SIEMENS International" and his gross salary is Rs.1,12,000/- per month. The learned Judge has perused the income tax returns filed by the wife and found a consistent growth in her income from Rs.1,59,110/- to Rs.3,61,550/-. However, he would found that her expenditure is around Rs.57,000/- and that she is unable to maintain herself.

9. The position of law with regard to maintenance is that has been laid down in ***Rajnesh -vs- Neha, (2021) 2 SCC 324***. The Court held even if the wife is capable of generating income, it is the sacrosanct duty of the husband



to maintain the wife and children, if any.

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10. In *Bharath Hedge -Vs- Saroj Hedge*, CDJ 2007 DHC 1466, the Delhi High Court held that it is the duty of Court while fixing the maintenance, to take into consideration of the status of the parties and the amount that the husband would have spend on the wife, in case, they had lived together in a matrimonial home.

11. The husband being an Engineer in SIEMENS, I am sure that he would have spent at least a sum of Rs.10,000/- or more on his wife, had she been living with him. The quantum not being excessive or arbitrary, I am not in a position to interfere.

12. In the result, the order of the learned VI Additional Family Court, Chennai is confirmed and the civil revision petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

28.08.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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C.R.P. No. 3439 of 2027

To

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The VI Additional Family Court at Chennai.



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V.LAKSHMINARAYANAN, J.,

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