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Civil Miscellaneous Appeal No.1023 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1023 of 2024

Chandru @ Dominic Pio Chandru

... Appellant

Vs.

Sukanya Seles

... Respondent

Civil Miscellaneous Appeal filed under Section 76 of the Motor Vehicles Act, 1988, to set-aside the fair and decreetal order dated 16.11.2022 in I.A.No.149 of 2020 in D.O.P.No.72 of 2020 on the file of learned Principal District Judge, Erode.

For Appellant : Mr.K.Rahul

For Respondents : Mr.R.Vivekanandan

JUDGMENT

The husband has filed this Civil Miscellaneous appeal against the order of interim maintenance passed by the learned Principal District Judge, Erode in I.A.No.149 of 2020 in D.O.P.No.72 of 2020 dated 16.11.2022.



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2. Heard Mr.K.Rahul, learned counsel for the appellant and Mr.R.Vivekanandan, learned counsel for respondent.

3. The appellant / husband filed D.O.P.No.72 of 2020 to declare the marriage as nullity and the same was pending. The respondent / wife filed I.A.No.149 of 2020 seeking for interim maintenance to the tune of Rs.30,000/-, till the disposal of the main petition.

4. The Court below on considering the facts and circumstances of the case and the materials available before the Court, fixed the interim maintenance at Rs.12,000/- payable every month till the disposal of the main petition in D.O.P No.72 of 2020.

5. Aggrieved by the above order passed by the Court below, the present appeal has been filed by the husband.

6. The Court below has basically taken into consideration Ex.P1 that was marked on the side of the respondent / wife, which *prima*



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facie established that the appellant / husband was running a IT company in the name and style of M/s.Mapiours Technologies at Pummal, Chennai. There was no contra evidence available to discredit this piece of evidence that was relied upon by the respondent / wife. Therefore, considering the claim made by the wife and considering the financial capacity of the husband, the Court below has fixed the interim monthly maintenance at Rs.12,000/- payable by the appellant, till the disposal of the original petition.

7. In spite of the above order passed by the Court below on 16.11.2022, the learned counsel for respondent submitted that no maintenance has been paid to the respondent.

8. The learned counsel for the appellant submitted that apart from filing this application, the respondent had also filed DVC No.20 of 2019 in which maintenance of a sum of Rs.10,000/- was awarded by order dated 21.11.2022. This was further confirmed in the appeal and as against the same, steps are being taken by the appellant to file a revision. Therefore, it was contended that the said maintenance amount that was



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awarded in the DVC has to be given due credit while deciding the interim maintenance payable in this case.

9. In the considered view of this Court, every other maintenance order that has been passed remains in paper and it has not translated itself into actual payment. In other words, the respondent has not seen the colour of the coin till date. The husband is bound to maintain the wife and if the husband had complied with the interim maintenance order passed by the Court below or atleast paid the maintenance fixed by the Court in the Domestic Violence case, some consideration can be shown. However, since the appellant / husband has not paid any maintenance, this Court is not inclined to interfere with the order of interim maintenance fixed by the Court below. In any event, this Court does not find any illegality or infirmity in the order passed by the Court below. If ultimately, the appellant / husband pays the interim maintenance fixed by the Court below, that can be a persuasive ground with regard to the challenge made to the order passed in the Domestic Violence Case.



Civil Miscellaneous Appeal No.1023 of 2024

WEB COPY

10. In the light of the above discussion, this Court does not find any merits in this appeal and accordingly, the same is hereby dismissed. There shall be a direction to the appellant / husband to pay the interim maintenance amount fixed by the Court below along with the arrears of maintenance and also continue to pay the interim maintenance every month without fail.

11. In the result, this Civil Miscellaneous appeal is dismissed. No costs.

29.04.2024

Speaking Judgment/Non-speaking Judgment
Index :Yes/No
Neutral citation: Yes/No
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To
Principal District Judge, Erode

N.ANAND VENKATESH.,J



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Civil Miscellaneous Appeal No.1023 of 2024

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Civil Miscellaneous Appeal No.1023 of 2024

29.04.2024