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C.R.P.No.3888 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2024

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THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3888 of 2024
and C.M.P.No.21314 of 2024

S.Bhanukopan ... Petitioner

-Vs-

G.Suganya ... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the order in I.A.No.3 of 2022 in O.P.No.2440 of 2019 by the VII Additional Family Court at Chennai.

For Petitioner : Mr.S.John Josh
For Respondent : Mr.Rishi
for Mr.R.Balachandran

ORDER

This civil revision petition arises against the order passed by the VII Additional Family Judge, Chennai in dated 11.10.2022.

2. O.P.No.2440 of 2019 is a proceeding initiated by the husband seeking for divorce including Section 13(1)(ia) of the Hindu Marriage Act. The petitioner married the respondent on 09.02.2012 and from the wedlock a female child was born on 02.03.2015. In and around 2017, the parties separated. The child is in the



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custody of the mother. The husband has initiated the aforesaid proceedings for divorce. The respondent wife has filed a detailed counter to the said O.P. Thereafter, she took out an application in I.A.No.3 of 2022 seeking for interim maintenance of Rs.55,000/- per month for herself and for the minor child.

3. The learned Judge ordered notice in the said application and the husband entered an appearance. After hearing both sides, the Court fixed a sum of Rs.20,000/- as maintenance per month for the wife and Rs.15,000/- for the daughter from the date of petition till 23.02.2022. Aggrieved by the same, the husband preferred CMA No.1395 of 2023. By virtue of the order passed in **S.Menaka -vs- Nepolian Socraties (2024) MHC 1405 (NC)**, the appeal was held not maintainable. Thereafter, the husband had preferred this revision challenging the very same order.

4. I heard Mr.John Josh for the civil revision petitioner. I requested him to serve the entire papers to Mr.Balachandran, the learned counsel who represented the respondent wife in CMA No.1395 of 2023. He did so and Mr.Rishi represents Mr.Balachandran.

5. Mr.John Josh argues that the husband is working as a Senior Associate (CS&S), State Bank of India, Kodambakkam branch. He refers to the pay slip that has been issued by bank to point out that his gross salary is Rs.80,840/- and post



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deduction he takes home a sum of Rs.43,487/-. Mr.John states that despite his income is limited, the husband is bearing the educational expenses and expenses for extracurricular activities of the child and under great difficulty, complying with the order of the trial Court. Mr.Jose also points out that his client is paying Rs.40,000/- per month as of now by liquidating his deposits.

6. Mr.Rishi argues that before the learned trial Judge, the husband did not produce any records. He adds that the civil revision petitioner is positioned well in the Society and that it is the duty of the husband to maintain his wife and child. He urges that the order of the trial Court is well reasoned and does not require any interference.

7. Heard both sides. I have gone through the records.

8. A perusal of the salary slip that has been produced by the husband shows that it has been issued by the State Bank of India for the month ending 31.06.2023. The salary slip shows that the take home salary of the husband is only Rs.43,698/-. With this amount, it will be impossible for the husband to pay Rs.35,000/- to the child. Mr.John states it is not the intention of the father to shirk the responsibility that he has towards the child and that his client is willing to pay the educational expenses including extracurricular activities of the child. This can be easily implemented by the respondent handing over the original payment slips that she



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has made to the school or when they are so demanded, to the husband. The husband can transfer the amount directly to the institution and forward a copy of the payment receipt to the wife. If the wife has already paid the fees, he can reimburse her.

9. If the husband bears the major portion of the expenses viz., educational expenses and extracurricular activities of the child, then to pay Rs.15,000/- for a nine year old child would be onerous in my view.

10. Taking into consideration the overall facts and circumstances of the case, I am inclined to modify the order of maintenance passed by the learned VII Additional Family Court at Chennai by reducing the amount of maintenance that the Court has directed to be paid to the daughter from Rs.15,000/- to Rs.10,000/-. Apart from this amount, as undertaken by the husband, he shall pay the educational expenses and expenses towards extracurricular activities of the child. Insofar as the amount of Rs.20,000/- ordered to the respondent wife is concerned, I am not interfering with the said portion. The husband will cumulatively pay a sum of Rs.30,000/- instead of Rs.35,000/- as ordered by the Court below. The Civil Revision Petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No



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Neutral Citation : Yes/No
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To

The VII Additional Judge
Family Court, Chennai.



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V. LAKSHMINARAYANAN, J.

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