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C.R.P.(PD).No.4421 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN, J.

C.R.P.(PD).No.4421 of 2024

and

C.M.P.No.24584 of 2024

Mr.T.J.Karthick

... Petitioner/Respondent

..Vs..

Dr.G.Prabha

... Respondent/Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, seeking to set aside the interim maintenance in order passed by I.A.No.2 of 2023 in H.M.O.P.N.1881 of 2021 dated 03.08.2024 on the file of the Subordinate Court at Alandur and waived off the same.

For Petitioner : Mr.K.Gajendiran

ORDER

This Civil Revision Petition arises against the order of the Subordinate Judge, Alandur in I.A.No.2 of 2023 in H.M.O.P.No.1881 of 2021 dated



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2. The Civil Revision Petitioner is the husband and there is no dispute in the relationship between the parties. The Civil revision petitioner married the respondent on 19.06.2013 at Tirupathi. From the wedlock, two children were born, who are aged about 8 years and 7 years as of today. Both are studying in school. The wife has initiated H.M.O.P.No.1881 of 2011 seeking for divorce. Pending the divorce petition, she took out an application seeking for interim maintenance under Section 24 of the Hindu Marriage Act.

3. The plea of the respondent/wife is that though she is a Doctor by profession, she being a differently abled person, she is finding it difficult to maintain herself as well as pay the school fees of the children and provide them with their daily expenses. She pointed out that her husband had taken an amount of Rs.3,00,000/- from her, allegedly as a loan, to start a business under the name and style of “BAIRAV LOGISTICS” but had pocketed the money without starting the business at all. Pleading that, she is putting about 8 to 12 hours work a day and taking care of her children without any support from her



husband. She alleged that the husband though he is earning about a lakh of rupees a month, he is not spending a single penny for them. Therefore, she sought for Rs.50,000/- per month as maintenance for herself and her child and a sum of Rs.50,000/- for litigation expenses.

4. Notice was ordered in the application and her husband has filed the counter.

5. Accordingly to him, the fact that the wife was differently abled was suppressed to him. So also the fact that the petitioner was previously engaged to a gentleman, by name Balaji. The Revision petitioner/husband stated that she is working in RELA Hospitals and added that she is earning a substantial income. Therefore, he denied any claim of maintenance for his wife.

6. It is pertinent to point out herein that the petitioner was employed in Abroad (Dubai) and thereafter, got an other employment in Dubai with an other Logistical Firm.

7. Considering the petition and counter, the learned Trial Judge has fixed an amount of Rs.10,000/- per month as interim maintenance to be paid



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by the husband to the wife and the two children.

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8. Aggrieved by the same, the husband is on revision.

9. I heard Mr.K.Gajendiran, learned counsel appearing for the Civil Revision petitioner.

10. Mr.K.Gajendiran, learned counsel states that the wife is a Doctor and is working at RELA Hospitals and she is earning a sum of Rs.3,00,000/- per month. Therefore, to demand of maintenance from the civil revision petitioner is untenable. He argues that the wife is not permitting the civil revision petitioner to see the children and therefore to demand maintenance on behalf of the children is equally untenable.

11. I have carefully considered the submissions of Mr.K.Gajendiran, learned counsel for the petitioner and also I have gone through the records.

12. The relationship, being admitted, it is the duty of the husband to maintain the wife and children. The plea, that the respondent/wife was previously engaged by one Mr.Balaji and therefore, he need not provide



maintenance certainly does not appeal to me. The parties were married for atleast a decade and a year, to plead that on account of her previous engagement, she is not entitled to seek maintenance, in my view is entirely untenable. The fact remains that the parties were married in the year 2013, and thereafter, they have brought forth two children into this world. Even, if the fact of previous engagement is true, by virtue of the fact that they lived as husband and wife from the year 2013 to 2024, the alleged suppression of previous engagement met be deemed to have been condoned by the act of the husband. It is on record that the husband had been employed by a Logistical Company in the Middle East. It is also pleaded by the wife that, the husband had taken a sum of Rs.3,00,000/- from her to start a Logistical Company in India. She has further stated that the husband is earning a sum of Rs.1,00,000/- a month.

13. In any event, the learned Trial Judge has not fixed an arbitrary or capricious figure for the husband to pay to the wife and children. The learned Trial Judge has only fixed a sum of Rs.3,000/- per head (approximately) per month. This amount can neither be said to be capricious or excessive, I am not



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inclined to revise the said amount.

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14. At this stage, Mr.K.Gajendiran, learned counsel pleads that, if sufficient time is granted, he will clear the arrears of maintenance.

15. The learned Trial Judge had granted time, till September 2024. As the husband was pursuing this Civil Revision Petition, he is granted time till 20th of December 2024, to clear the arrears. This extension to pay the arrears will not exclude the duty of the husband to pay the maintenance month on month to the wife and children.

16. The only modification in the impugned order, is on the time granted, to clear the arrears. The order in all other aspects shall stand confirmed. The Civil Revision Petition is dismissed. No costs.

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Index : Yes

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Neutral Citation Case: Yes/No



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