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C.R.P.(PD)No.4578 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.4578 of 2024

T.Jeyakarthikeyan

.. Petitioner

Vs

S.Samundeeswari

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order and Decretal Order passed in I.A.No.90 of 2020 in H.M.O.P.No.132 of 2019 on the file of the Principal District Court, Erode dated 19.09.2024 by allowing this revision.

For Petitioner : Mr.M.Ramaiah

ORDER

This Civil Revision Petition challenges the the order of the learned Principal District Court, Erode in I.A.No.90/2020 in H.M.O.P.No.132/2019 dated 19.09.2024.



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2. H.M.O.P.No.132 of 2019 is an application filed for divorce by the Civil Revision Petitioner. He has alleged that he is entitled to divorce on the grounds of cruelty. He married the respondent on 24.02.2008. From the wedlock, two children were born who are aged about 17 and 14 years respectively as on today. Pending the application for divorce, the wife moved an application for interim maintenance. She stated that she is living with her parents and unable to maintain herself and has no independent source of income. She pointed out that with great difficulty, the children are being educated in a reputed school in Erode. She pointed out the husband is owning agricultural lands, houses and shopping complexes in Erode, which are worth several crores of rupees. She pleaded the husband is getting monthly rental income of Rs.1,20,000/- . Therefore, she sought for Rs.1,00,000/- as maintenance for herself and for her children. She also sought for Rs.50,000/- towards litigation expenses.

3. That application was numbered as I.A.No.90/2020. Notice was ordered to the Respondent and he filed a detailed counter. He denied the fact that he had deserted his wife. He pointed out that he was treated



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with cruelty and hence, he was constrained to file present H.M.O.P. for divorce. He added that he had purchased two plots in the name of his wife and she had, without his knowledge, constructed a house in one such plot and was residing therein. He pointed out that he is willing to bear the expenses of the minor children including their school expenses, but stated he is not willing to satisfy the claim of the wife as it is exorbitant, unreasonable and unsustainable. The learned District Judge called upon the parties to file their affidavit of Assets and liabilities. Neither parties entered the witness box to tender evidence. The husband during the course of enquiry filed a Memo on 25.08.2023. stating that he is generating only about Rs.15,000/- per month from his ancestral assets and he wanted the Court to take note of the same and fix the interim maintenance accordingly.

4. The learned Trial Judge, after considering of the entire facts, came to a conclusion that the husband is liable to pay a sum of Rs.10,000/- to the wife and Rs.6,000/- each to the two minor children. Aggrieved by the said order, the husband is on Revision.

5. I heard Mr.N.Ramiah for the Cviil Revision Petitioner.



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Mr.M.Ramiah pleads that the husband is not generating income of Rs.22,000./- for him to pay maintenance for the wife and children. He states that the maintenance amount is exorbitant and therefore it has to be reduced.

6. I have carefully considered the plea of Mr.M.Ramiah and I have gone through the records.

7. A perusal of the affidavit of assets and liabilities filed by the husband shows that he is possessed of five shops which generate rent. Apart from that, he is also owning five house properties which are also generating the rental income. Curiously enough, the affidavit of assets and liabilities filed by the husband discloses as if he is getting rental income of Rs.5000 in all. Furthermore, the husband has accepted that he will pay a sum of Rs.6,000/- for his minor sons and 3000/- for his wife. This shows that the liability that the husband owes to the wife has been accepted by the Civil Revision Petitioner. All that remains is the quantum that has to be fixed by the Court.

8. I have to point out here that when it comes to matters of interim



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maintenance, unless and until, the amount is excessive or arbitrary, this

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Court should not interfere with such orders. Such orders are passed to enable the wife and children to survive the litigation. The affidavit of the husband shows that he is a wealthy person. The children are studying in school and they would incur expenses towards school, transportation and medical issues. The Court has followed a rule of thumb and fixed 10,000/- for the wife, and for the children, it has fixed a sum of Rs.6,000/- per month. For three human beings to live in Erode a sum of Rs.22,000/- in all cannot be said to be excessive or arbitrary.

9. Furthermore, the status of the Petitioner is such that he is the owner of the shops as well as the residential buildings. The quantum of maintenance fixed in fact is a conservative one. The learned Judge has kept in mind the status of the Civil Revision Petitioner and has fixed interim maintenance. The learned Judge has applied correct law to the facts.

10. I do not find any reason to revise the order of the learned District Judge, Erode. This Civil Revision is dismissed. No costs.



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V. LAKSHMINARAYANAN,J.

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Consequently, connected Miscellaneous Petition is closed.

18.11.2024

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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To

The District Court, Erode.

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