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C.R.P.No.4731 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4731 of 2024 &
CMP.No.26446 of 2024

V.Wilson

.. Petitioner

Versus

W.Nandhini

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 05.08.2024 passed by the VI Additional Family Court, Chennai in I.A.No.1 of 2023 in IDOP.No.771 of 2023 directing the petitioner herein to pay interim maintenance of Rs.20,000/- per month.

For Petitioner : Mr.K.C.Karl Marx

ORDER

This civil revision petition arises against the order passed by the learned VI Additional Family Court at Chennai in I.A.No.1 of 2023 in IDOP.No.771 of 2023 dated 05.08.2024.



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2. The civil revision petitioner is the husband. He presented IDOP.No.771 of 2023 seeking for divorce on the ground of cruelty. The wife has completed pleadings in the main case.

3. Thereafter, she filed an application seeking maintenance of Rs.30,000/- for herself and for the minor child, who was born from the wedlock on 16.11.2021. The said application was received in I.A.No.1 of 2023.

4. In I.A.No.1 of 2023, the respondent/wife pleaded that she is unemployed and is not able to maintain her two year old son. She pleaded that she is paying a sum of Rs.3,000/- per month, for the child to go to the Little Hearts Play School and Day Care Centre at Chennai. She pointed out that her father had expired and her mother is only a home keeper.

5. Notice was issued to the petitioner/husband. He filed a counter pleading that it is a false averment that the wife is unemployed. He alleged that the wife is working as a Lab Technician in the Kilpauk Medical College and Hospital and is also working in three other private labs and earning a



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sum of Rs.25,000/- per month. In addition, he alleged that his monthly salary is only Rs.55,000/- and he is servicing three loans for Rs.8,657/-, Rs.4,719 and Rs.10,122/- for every month. He urged that he is paying a monthly rent of Rs.12,500/- for the house in which he is residing and the household expenses are Rs.7,000/-. Apart from that, he is spending Rs.4,000/- per month for petrol expenses. He pleaded that he is spending only Rs.2000/- per month for himself and is also taking care of his aged parents for whom he is spending Rs.4,000/- per month towards their medical expenses. On these grounds, he pleaded that the wife is not entitled for maintenance.

6. The learned Trial Judge came to a conclusion that the wife and child will be entitled for a sum of Rs.20,000/- per month as maintenance from November 2023 till disposal of the main OP. Challenging the same, the present civil revision petition has come up before me.

7. I heard Mr.K.C.Karl Marx for the civil revision petitioner.



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8. Mr.K.C.Karl Marx urges that the wife is earning a substantial income and therefore, she is not entitled for maintenance. In addition, he pleads that the husband is earning only Rs.55,000/- and his monthly loan requirements alone come to Rs.48,998/- and therefore, he cannot pay Rs.20,000/- per month towards interim maintenance. He states that the wife has put the child in the day care centre, from which this Court should conclude that the wife is working. Hence, he pleads for revision of the amount fixed by the Trial Court.

9. I have carefully considered the submissions of Mr.K.C.Karl Marx and have gone through the records.

10. At the outset, I should point out that it is duty of the husband to maintain his wife and child. Even if I were to assume that the wife is working, this duty of the husband cannot be shrugged off. The learned Trial Judge had gone through the bank statement of the civil revision petitioner and came to a conclusion that month on month, the husband is getting the following amounts:

October 2023 - Rs.61,153/-



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November 2023 - Rs.71,780/-

December 2023 - Rs.72,571/-

January 2024 - Rs.1,17,521/-

February 2024 - Rs.75,549/-

March 2024 - Rs.66,204/-

April 2024 - Rs.90,221/-

11. This shows that the plea of the civil revision petitioner that he is drawing only a sum of Rs.55,000/- per month is contrary to his own records. The learned Trial Judge also went through the bank statement of the wife and found that there is no month on month deposit of salary which would have been the case, had she been working in Kilpauk Medical College and Hospital.

12. With respect to the plea of Mr.K.C.Karl Marx that the child has been admitted to the Day Care Centre and therefore, presumption that the wife is working also does not appeal to me. This is for a simple reason that the child is going to an institution by name “Little Hearts Play School and Day Care Centre”. The fact, that the institution is also running a day care



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institution, does not lead one to a conclusion that the child is not in the play school but in the day care centre.

13. Apart from this, for a person who is earning more than Rs.60,000/- per month, the court has fixed only 1/3rd of his salary as maintenance for the wife and child. For two human beings living in the city of Chennai, a sum of Rs.10,000/- per head works out to less than Rs.300 per day. The wife has produced records to show that she is spending Rs.3000/- on the play school itself which hardly leaves only Rs.17,000/- in the hands of the wife to take care of herself and her son.

14. I do not find this excessive. The figure is not arbitrary. I am not inclined to interfere. The civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

26.11.2024

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



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To

The VI Additional Family Court, Chennai



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V.LAKSHMINARAYANAN, J.

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