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C.R.P.No.4788 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2024

CORAM:

THE HON'BLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4788 of 2024

and

C.M.P.No.26784 of 2024

E.Nithyanandh

... Petitioner

-Vs-

1. K.M.Vishnupriya

2. Sai Harshavadhini (Minor)

aged about 8 years

Rep. By her mother and natural guardian

K.M.Vishnupriya

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order dated 30.09.2024 made in E.P.No.28 of 2024 in I.A.No.154 of 2017 in O.P.No.969 of 2016 passed by the IV Additional Principal Family Court, Chennai and allow this civil revision petition.

For Petitioner

: Mr.Thiruneelakandan
for Mr.P.Sathyanathan

ORDER

This Civil Revision Petition challenges the order passed by the learned IVth Additional Family Court, Chennai in E.P.No.28 of 2024 in



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I.A.No.154 of 2017 in O.P.No.969 of 2016 dated 30.09.2024.

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2. The relationship between the parties is not in dispute. The petitioner married the 1st respondent. From the wedlock between the petitioner and the 1st respondent, the 2nd respondent was born. Pleading that he is entitled to divorce on the grounds of cruelty, the petitioner filed O.P.No.969 of 2016. Pending the said application, the wife moved a petition for interim maintenance in I.A.No.154 of 2017, seeking for Rs.1 lakh as maintenance for the minor child. The said application was allowed on 07.02.2020.

3. The learned IVth Additional Family Court Judge, Chennai directed the husband to pay a sum of Rs.25,000/- to the minor child from January 2017, till the disposal of O.P.No.969 of 2016. The petitioner did not comply with the order of maintenance. Therefore, the O.P.No.969 of 2016 was dismissed for default. As the maintenance amount towards the child was not paid, the 1st respondent presented E.P.No.28 of 2024. She claimed that the 2nd petitioner is entitled to maintenance from 2017 till September 2021 at the rate of Rs.25,000/- in all amounting to



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Rs.14,25,000/-. This order passed in the Interlocutory Application was challenged before this Court by way of Civil Miscellaenous Appeal in C.M.A.No.2813 of 2021. The said appeal was dismissed as withdrawn on 07.07.2022. Thus, ithe liability of the petitioner to pay the maintenance reached the finality on 07.07.2022.

4. As the O.P.No.969 of 2016 came to be dismissed for default, the 1st respondent initiated M.C.No.489 of 2019. By an order dated 20.10.2022, the maintenance application was allowed. The civil revision petitioner was called upon to pay a sum of Rs.40,000/- to the 1st respondent wife and Rs.10,000/- to the 2nd respondent child. Challenging the same, a Criminal Revision has been presented before this Court. I am informed that a stay had been granted on a condition that the petitioner shall deposit a sum of Rs. 3 lakhs.

5. As the amount ordered in I.A.No.154 of 2017 remained unpaid, EP was taken up for disposal. In the said Execution Petition, the learned Judge held that the petitioner is liable to pay Rs.14,25,000/-. At the same time, the Court protected the interest of the civil revision petitioner by



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directing that this amount will be adjusted as against the arrears in M.C.No.489 of 2019, once the Criminal Revision Petition is disposed of. Challenging the same, the present petition is filed.

6. The learned counsel for the petitioner urged that, he cannot be called upon to pay two sums, one in I.A.No.154 of 2017 and other by virtue of M.C.No.489 of 2019 and hence he pleaded that the order be revised.

7. I have carefully considered the submissions and I have gone through the records.

8. The narration of the facts show that the order passed in I.A.No.154 of 2017 dated 07.02.2020 has attained finality. Once the order has attained finality, husband is duty bound to make payment under the said order. The fact that the wife had subsequently filed maintenance petition and she was successful, does not mean that the husband should not honour the decree already passed. In any event, as pointed out above, the learned Judge has protected the interest of the Civil Revision



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Petitioner by holding that the amount paid in E.P.No.28 of 2024 will be adjusted as against any claim for arrears in M.C.No.489 of 2019.

9. I am of the view that this Revision is only an attempt not to pay the amounts in E.P.No.28 of 2024 by attempting to take advantage of stay granted in the criminal revision petition. Grant of stay of the operation of the order in M.C.No.489 of 2019 will not operate as a stay of the order in I.A.No.154 of 2017. The liability of the petitioner having been crystalized by the Trial Court and the same having been confirmed by the dismissal of C.M.A.No.2813 of 2021, I am not inclined to admit this Civil Revision Petition.

10. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking Order : Yes/No

Sma / krk

V.LAKSHMINARAYANAN, J.



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To

IVth Additional Principal Judge,
IV Additional Family Court,
Chennai.

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