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C.M.A.Nos.267 & 269 of 202



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.02.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

C.M.A.No.267 & 269 of 2024

Asmitha Alankritha

...Appellant in both CMAs

Versus

Ashwanth Pothy

...Respondents in both CMAs

COMMON PRAYER : The Civil Miscellaneous Appeals are filed under Section 19 of Family Courts Act, 1984, to set aside the order and final order dated 26.10.2023 made in HMOP No.604 of 2023 and I.A.No.2 of 2023 in HMOP No.604 of 2023 on the file the Additional Principal Family Judge, Coimbatore

For Appellants : Mr.A.Selvendran

COMMON JUDGMENT

(Judgment of the Court was made by **K.KUMARESH BABU. J**)



These Civil Miscellaneous Appeals had been preferred against the common award passed by the Court below in granting Rs.25,000/- under the head “Interim Legal Expense” and Rs.50,000/- under the head “interim maintenance” for the appellant and her daughter.

2.Heard Mr.A.Selvendran, learned counsel appearing for the appellant.

3.The learned counsel appearing for the appellant would submit that the appellant was married to the respondent herein and that the respondent had abused the appellant mentally as well as physically. He would further submit that the respondent had filed an application for divorce and also an application under the Guardian and Wards Act. Pending these applications, the appellant and her daughter had not been supported financially and she had taken out an application seeking financial assistance under the heads of “interim legal expenses and interim maintenance for the appellant and her daughter”. Without considering the lawful claims of the appellant, the Court below had granted only a sum of Rs.25,000/- towards interim legal expense and Rs.50,000/- towards interim maintenance for both the appellant and her daughter. According to her, the said amount awarded by the Court below is very meager to her needs. Therefore, the learned counsel appearing for the



appellant would submit that the order of the Court below would have to be interfered with and the maintenance ordered by the Court below would have to be enhanced including the interim legal expenses.

4. We have considered the submissions made by the learned counsel appearing for the appellant and also perused the materials placed on record.

5. On a perusal of the affidavit filed by the appellant in support of her applications, the heads under which she had sought for is that a minimum of Rs.1,00,000/- is required for the rent and Rs.2,00,000/- towards food and clothing expenses and also a sum of Rs.7,00,000/- towards medical expenses and other miscellaneous expenses. The relevant paragraph in the affidavit filed by the appellant before the Court below is extracted hereunder:-

11. I respectfully submit that it is no longer possible for me to stay under one roof with my parents and we have to shift to a new residence and buy a car for our usage and lead comfortable life. The minor is entitled to claim for her periodical medical check-ups, vaccination and all her day to day needs. We requires a minimum of Rs.1,00,000/- towards rent, Rs.2,00,000/- towards our food and clothing expenses and also require Rs.7,00,000/- towards medical expenses and other miscellaneous expenses. There are other expenses and we are entitled for maintaining a status as that of the respondent. Hence the main application is filed claiming



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Rs.10,00,000/- towards maintenance. Considering the day to day escalating prices and sky raising cost of living in these hard days of life, I claim a sum of Rs.5,00,000/- per month towards food, medical expenses, clothing shelter etc., being an interim maintenance. I immediately require monetary assistance.

6. We were also surprised to note the averment of the appellant in the entire affidavit, particularly to substantiate her claim, she had specifically averred that she is accustomed to lead a luxurious life and that she used to travel in a luxury car and stay in star hotel and she has specifically averred that she leads a luxurious and more sophisticated life. An application for interim maintenance is granted, when it is sought for by considering the financial situation of the wife and children. In this case, the appellant had admittedly in clear terms had averred that she comes from a respectable and financially well supported family. As recorded above, she cannot be termed to be a person, who requires money to meet her day to day expenses. She had the courage to plead that she requires money to lead a lavish and sophisticated life, as she had been brought up in such circumstances by her father.

7. In such circumstances, we are of the view that these applications had been taken out by the appellant only to feed her ego. We are not inclined to



even entertain these appeals, as we are of the view that the appellant is trying to use this judicial process to feed her ego.

8. Further on a perusal of the order of the Court below, we find that the appellant had filed about 12 Exhibits in support of her claim. None of the exhibits support her requirement for the day to day needs, which she claims. Further under the head of “interim legal expenses”, the appellant claimed for a sum of Rs.5,00,000/-. She had neither produced any bill raised by her counsel nor any documents evidencing such payment by her to her counsel either under the heads of fees or expenses in defending her or in filing these applications. As we have found that she had only filed these Appeals without any bonafides, we are also inclined to award costs.

In fine, these Civil Miscellaneous Appeals are dismissed and the appellant shall pay a cost of Rs.50,000/- to each of the CMAs to the District Legal Services Authority, Coimbatore.

(R.S.K.,J.)
(K.B., J.)

09.02.2024

Index: Yes/No



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Speaking Order/Non Speaking Order
Neutral Citation:Yes/No

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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

pbn

To

1.Additional Principal Family Judge, Coimbatore

2.The Section Officer
VR Section
High Court of Madras
Chennai – 600 104

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