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C.R.P. (PD) .No.4965 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4965 of 2024
and C.M.P.No.27941 of 2024

Baskar

.. Petitioner

Vs.

Aruna Devi

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order passed by the Sub Court, Pappireddipatti, dated 24.06.2024 made in I.A.No.1 of 2023 in H.M.O.P.No.61 of 2023 and to dismiss the Interlocutory Application as prayed for.

For Petitioner : Ms.R.Geethalakshmi

ORDER

This civil revision petition challenges the order of the learned Subordinate Judge, Pappireddipatti, Dharmapuri District, in I.A.No.1 of 2023 in H.M.O.P.No.61 of 2023 dated 24.06.2024.

2.H.M.O.P.No.61 of 2023 was originally presented before the learned



Subordinate Judge at Harur as H.M.O.P.No.81 of 2020.

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3.H.M.O.P. was presented by the husband for divorce invoking Section 13 (1), (ia) & (ib) of the Hindu Marriage Act. Summons was served on the respondent – wife. She has also filed a detailed counter. Subsequently, she took out an application for interim maintenance under Section 24 of the Hindu Marriage Act.

4.Her plea is that she is unable to maintain herself and her child and hence, sought for a sum of Rs.15,000/- per month toward interim maintenance and a sum of Rs.25,000/- for litigation expenses.

5.This application was resisted by the husband pleading that it was the wife who treated him with cruelty and deserted him. He pleaded that he had approached her for reunion through his relatives as well as through the All Women Police Station, at Harur. Yet, the wife refused to join him. He pleaded that just for the sake of getting money from him, she has filed the maintenance petition.

6.Neither parties entered the witness box nor tendered any documentary



evidence. The learned Trial Judge after appreciation of the affidavit and counter, came to a conclusion that an interim maintenance of Rs.5,000/- per month be granted to the wife & child and Rs.5,000/- towards litigation expenses. Challenging the same, the husband is on revision.

7.I heard Ms.R.Geethalakshmi for the civil revision petitioner.

8.Ms.R.Geethalakshmi pleads that the husband is unemployed and he is not in a position to take care of himself. Therefore, the question of maintaining his wife does not arise. In addition, she argues that the husband has aged parents, who are sick, on whom he has to spend considerable amounts and therefore, the order requires to be revised.

9.I have considered the submissions of Ms.Geetha Lakshmi.

10.There is no dispute that the petitioner married the respondent on 15.11.2012. It is also not in dispute on 03.04.2014, the couple were blessed with a child. Thereafter, due to disputes and differences, they separated.

11.The wife has pleaded that she is unable to maintain herself and when



she was in the advanced stage of pregnancy, she had been turned out of the house. She pleads that the husband is working in a private concern and is earning a sum of Rs.30,000/- per month and is also getting income from agricultural properties.

12.The learned Trial Judge has noted that though the husband claimed that he has no income; he has found on facts that the husband is earning about Rs.15,000/- per month. The fact that the husband is taking care of his parents does not mean he should not take care of his wife and child. Taking care of one's parents is not mutually exclusive when comes to one's own family. When the husbands pleads that the wife is employed in a School and is generating income, it is his duty to demonstrate before the Court that it is true. He had failed to do so.

13.On the contrary, the petitioner has pleaded in terms of Section 24 of the Hindu Marriage Act, that she has no source of income. Under Section 24, all that it requires is for a spouse to plead that he or she is unable to maintain himself / herself. The burden is on the person pleading that the petitioner is employed and generating income to demonstrate the same. In addition, the



C.R.P. (PD) .No.4965 of 2024

duty of the husband is to maintain his wife and child continues, irrespective of the fact, whether he is generating income or not. In any event, an amount of Rs.5,000/- per month for two human beings cannot be said to be excessive or arbitrary. The child is aged about 9 years today and obviously, he would be consuming more than Rs.2,500/- per month that has been ordered to him by the Court.

14.I do not find any reason to interfere with the order of the learned Sub Judge, Harur, in I.A.No.1 of 2023 in H.M.O.P.No.61 of 2023. The amount is neither arbitrary nor excessive.

15.In the result, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

17.12.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

V.LAKSHMINARAYANAN, J.



C.R.P. (PD) .No.4965 of 2024

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To

The Sub Court,
Pappireddipatti,
Dharmapuri District.

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