



C.R.P.No.3091 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P. No. 3091 of 2019

and

C.M.P. No. 20074 of 2019

Raja Guru Ambedhkar

... Petitioner

Vs.

Bhuvaneswari

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 19.10.2016 made in I.A.No.86 of 2014 in H.M.O.P.No.367 of 2013 passed by the Subordinate Court, Tambaram.

For Petitioner : Mr. Gnanasekar

ORDER

The Civil Revision Petition has been filed against the fair and decreetal order dated 19.10.2016 in I.A.No.86 of 2014 in H.M.O.P.No.367 of 2013 on the file of the Subordinate Judge, Tambaram.

2. The revision petitioner is the husband and respondent is the wife.



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3. The facts of the case are that the respondent / wife filed the H.M.O.P.No.367 of 2013 for restitution of conjugal rights. The case of the wife is that she was beaten and thrown out of the matrimonial home on 05.04.2012 by her husband. The respondent/wife took several steps for reunion but nothing proved futile. As the respondent/wife living with the support of her old age father who has very little source of income, she filed a petition under Section 24 of Hindu Marriage Act, seeking direction to the petitioner / husband to pay a sum of Rs.15,000/- per month towards monthly maintenance from 30.03.2013 till the disposal of main O.P.

4. The contention of the wife is that her husband is working as a Manager in the private concern and also doing business as part time and getting monthly income around Rs.50,000/- and he is having family properties and he is not paying any amount for daily needs to her as on date.



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5. The case of the petitioner / husband is that the respondent / wife is not entitled for interim maintenance from the petitioner. She filed this petition with ulterior motive and without right so over to extract money from the petitioner-husband.

6. Having considered the rival contentions, the Subordinate Court, Tambaram granted a sum of Rs.10,000/- per month as maintenance, treating it as a reasonable one towards the maintenance to the wife. The Court below also directed to pay the maintenance amount on or before 5th of every month from the date of filing of the petition to till the date of disposal of the main O.P., without fail. He is further directed to pay past arrears i.e., from the date of petition to till date directly to the respondent/wife within a period of six weeks from today without fail. Against the said order, the husband filed the present Civil Revision Petition.

7. Notice sent to the respondent is returned with an endorsement “unclaimed”.



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8. As per the settled law, the notice returned “unclaimed” has to be treated as deemed service. Under these circumstances, this Court intends to proceed with the matter basing on the material available on record.

9. Learned counsel for the petitioner / husband submits that the Court below is erred in taking into consideration the monthly income of the petitioner / husband at Rs.50,000/- without substantial proof when no enquiry was conducted and no material evidence was placed on record. He further contends that the petitioner / husband is working in a private company and in not taking account of the proof submitted by him to that effect that his monthly income is only at Rs.7,250/-. The petitioner is not having any other income and as such, ordering to pay a sum of Rs.10,000/- towards maintenance is arbitrary and he sought interference of this Court by allowing the C.R.P.

10. Heard and perused the material available on record.



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11. It is an undisputed fact that the petitioner and the respondent are husband and wife. They are living separately at present due to some disputes. The petitioner / husband filed M.O.P.No.73 of 2013 before the Family Court, Puducherry for divorce. The respondent-wife filed H.M.O.P.No.367 of 2013 on the file of the Subordinate Court, Tambaram seeking for restitution of conjugal rights.

12. During the pendency of the said O.P., she filed an application in I.A.No.86 of 2014 under Section 24 of Hindu Marriage Act seeking a sum of Rs.15,000/- per month towards monthly maintenance to her. The said application was allowed by the Court below fixing a sum of Rs.10,000/- per month towards maintenance to the respondent-wife. Infact, no oral or documentary evidence adduced on either side. On hearing both side, considering the facts and circumstances of the case, the Court below directed the petitioner / husband to pay monthly maintenance of a sum of Rs.10,000/- to the respondent / wife on or before 5th of every month. The Court below also directed the petitioner / husband to pay past arrears from the date of petition to till date directly to the respondent / wife.



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13. As there is no dispute with regard to the marital status of the petitioner and respondent as husband and wife and the petitioner is not able to prove that the respondent is having sufficient financial source to maintain herself or the respondent is having any properties for her survival, definitely, it is the responsibility of the petitioner / husband to maintain his wife. Infact, the respondent claimed Rs.15,000/- per month towards maintenance but the Court below considering the facts and circumstances of the case, granted only Rs.10,000/- per month towards maintenance. In the present cost of living, in the considered opinion of this Court, Rs.10,000/- is also insufficient for maintenance.

14. As such, in our considered view, there is no illegality or infirmity in the order passed by the Court below granting a sum of Rs.10,000/- per month toward maintenance to the respondent / wife and interference of this Court is not warranted into the order dated 19.10.2016 in I.A.No.86 of 2014 in H.M.O.P.No.367 of 2013 on the file of Subordinate Judge, Tambaram.



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15. For the reasons stated, the Civil Revision Petition is dismissed.

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16. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Index : Yes / No

Neutral Citation : Yes / No

AT

To

The Subordinate Court, Tambaram.



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BATTU DEVANAND, J.

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