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C.R.P.(MD)No.1872 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.1872 of 2024 and
C.M.P.(MD)No.10592 of 2024

Shanthi Florence

... Petitioner/Petitioner/
Respondent

Vs.

Jawahar

... Respondent /Respondent/
Defendant

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to allow this memorandum of civil revision petition and thereby set aside the fair and decreetal order dated 11.03.2021 in I.A.No.1 of 2021 in D.O.P.No.96 of 2019 on the file of the II Additional District Court, Tuticorin.

For Petitioner : Mr.B.Rajesh Saravanan

For Respondent : Mr.B.Arun



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ORDER

Heard both sides.

2. The respondent herein filed I.D.O.P.No.96 of 2019 on the file of the II Additional District Court, Dindigul for divorce. The respondent is a pensioner and the petitioner is also a retired Government staff. It is stated that she is not getting any pension. The petitioner filed I.A.No.1 of 2021 for payment of maintenance and for other reliefs. The said IA was dismissed on the sole ground that it had been belatedly filed. Such a ground is unacceptable.

3. It is always open to the wife to seek interim maintenance till the conclusion of the matrimonial proceedings. Merely because the maintenance application was not filed immediately, it cannot be a ground for dismissal of the IA itself. A party to the proceedings can be expected to seek maintenance only if she feels the need for the same. Obviously, the petitioner did not feel it earlier. The impugned order is set aside. The matter is remitted to the file of the Court below. The Court below shall dispose of I.A.No.1 of 2021 on merits and in accordance with law within



a period of eight weeks from the date of receipt of a copy of this order.

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Both the parties are given liberty to advance their respective cases and adduce evidence in support of their respective stand. This civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

15.10.2024

Index : yes/No
Internet: Yes/No
PMU

To

The II Additional District Judge,
Tuticorin.



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G.R.SWAMINATHAN,J.

PMU

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