



C.M.A.(MD)No.93 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.(MD)No.93 of 2014

and

M.P(MD) No.1 of 2014

Domnic

... Appellant/Respondent/Petitioner

-vs-

Abila Teresa

... Respondent/Petitioner/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Order 43 Rule 1 of C.P.C, against the fair and decretal order dated 18.11.2013 passed in I.A.No.358 of 2013 in I.D.O.P.No.66 of 2012 on the file of the I Additional District Judge (PCR), Tiruchirappalli.

For Appellant	: Mr.P.Vinoth for Mr.R.Subramanian
For Respondent	: No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant as against the order passed in I.A.No.358 of 2013 in I.D.O.P.No.66 of 2012 on



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the file of the I Additional District Judge (PCR), Tiruchirappalli, wherein the appellant herein had filed this petition in I.D.O.P.No.66 of 2012 as against the respondent herein in that main petition. The respondent herein has filed I.A.No.358 of 2013 for interim maintenance and the trial Court has awarded a sum of Rs.3,000/- (Rupees Three Thousand only) per month towards maintenance. As against the same, this appeal has been filed by the appellant.

2. According to the appellant, he has filed I.D.O.P.No.66 of 2012, seeking divorce. In that proceedings, the respondent filed an application in I.A.No.358 of 2013 for interim maintenance. At the time of marriage, the respondent was offered nearly 50 sovereigns of jewels. Out of the wedlock two children were born. The respondent has no source of income and depending upon the income of the appellant. The Appellant has income through lorry business with three lorries and he is earning a sum of Rs.5 lakhs per month and he is also having various source of income.

3. According to the respondent, before the marriage the appellant has been working as a lorry driver and thereafter, he went to Singapore and he was working as a driver and thereafter he purchased the lorries. The son of



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the respondent is working in Singapore and he was earning sufficient money to maintain the respondent. Already the respondent was given plot at Kattur village and registered the same in the name of the respondent and apart from the above house plot, she is having ancestral properties and from the above she is getting Rs.10,000/- p.m as rent. Her son is also sending money from Singapore and she is having enough money to maintain herself. Therefore, the petition is liable to be dismissed.

4. Before the Trial Court, both parties have not adduced any witnesses. On the side of the petitioner, no documents were marked and on the side of the appellant/respondent, Ex.R.1 and R2 were marked.

5. The Trial Court after considering the submissions on either side has awarded a sum of Rs.3,000/- towards maintenance per month to the respondent/petitioner. As against the same, the present appeal has been filed by the appellant.

6. The learned counsel appearing for the appellant would contend that the appellant is aged about 60 years and he has no source of income and he



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cannot provide maintenance to the respondent. At the time of marriage, he was working as a lorry driver and he had purchased the lorries. Subsequently, he was working as a driver on daily wage basis. For the educational expenses of his son, one lorry was sold and another lorry was sold for the marriage expenses of his daughter. Already the appellant also purchased plot in the name of the respondent and it worth about more than seven lakhs. The respondent is getting more than Rs.10,000/- as rent from the properties. Now the respondent is living with her daughter. The appellant is taking care of his son. There is no necessity for the respondent to claim maintenance of Rs. 3,000/-. Hence, the order passed by the trial Court is liable to be dismissed.

7. Though the name of the respondent is printed in the cause list, no one appeared on behalf of her.

8. In this case, it is an admitted fact that the appellant and the respondent are husband and wife and children were born to them. The appellant also admitted through pleadings that he had lorries and already he purchased a property in the name of his wife. Ex.R2 is a copy of sale deed pertaining to a house site and it is not proved that the respondent has received



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amount from the above plot. Though the respondent has not filed any document, the appellant himself admitted that he owns lorry and also sold some of them. Though he is not having enough fund, it is the bounden duty of the appellant to maintain the respondent who is his wife and the appellant failed to prove that the respondent has sufficient means to maintain herself. Thereby the trial Court after considering the facts and the rival submissions of the parties awarded a meager amount of Rs.3,000/- per month and the same is reasonable one. Therefore, the order passed by the trial Court is in order and there is no infirmity or perversity found in the order of the Court below. Therefore, this appeal has no merit and the same is liable to be dismissed.

9. In the result, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

01.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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- To
1. The I Additional District Judge (PCR),
Tiruchirappalli.
 2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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