



C.R.P.(MD)No.1993 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 22.10.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1993 of 2024
and
C.M.P.(MD)No.11294 of 2024

S.Kalyana Sundari

... Petitioner / Petitioner / Respondent

Vs.

L.Balaji

... Respondent / Respondent / Appellant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 02.07.2024 passed in CrI.M.P.No.3904 of 2024 in CrI.A.No.76 of 2023 on the file of the 2nd Additional District and Sessions Court, Thoothukudi.

For Petitioner : Mr.N.Pragalathan

For Respondent : Mrs.P.Jessi Jeeva Priya

ORDER

Heard both sides.



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2. The petitioner filed D.V.A.No.20 of 2017 on the file of the Judicial Magistrate No.1, Thoothukudi. It was allowed and the respondent herein was directed to pay a sum of Rs.20,000/- per month as maintenance to the petitioner. The respondent filed Criminal Appeal No.76 of 2023 before the appellate Court. The respondent had taken the stand that the petitioner herein did not file the affidavit of assets and liabilities. To make good the said lacuna, the petitioner wanted to file an appropriate petition before the appellate Court. To this effect, she filed CrI.M.P.No.3904 of 2024. It was dismissed. Questioning the same, this civil revision petition came to be filed.

3. These are not matters in which technical approach need to be adopted. Filing an affidavit of assets and liabilities is the sine quo non for deciding any maintenance matters. Therefore, the first appellate court ought not to have shut out the petitioner from filing her affidavit.

4. In this view of the matter, the impugned order is set aside. The first appellate court will receive the petitioner's affidavit of assets and liabilities. The first appellate court need not remand the matter for this sole reason. The first appellate court itself can decide whether the order of the trial magistrate is justified or not.



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5. The Civil Revision Petition is allowed on these terms. No costs.

Consequently, connected miscellaneous petition is closed.

22.10.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

The 2nd Additional District and Sessions Court, Thoothukudi.



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G.R.SWAMINATHAN, J.

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