



C.R.P(MD)No.2213 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.10.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD)No.2213 of 2024
and
C.M.P(MD)No.12552 of 2024

Paramasivam

... Petitioner /
Respondent /
Respondent

Vs.

Premalatha

... Respondent /
Petitioner /
Petitioner

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the entire records relating to the fair and decreetal order dated 24.07.2024 passed in I.A.No.2 of 2022 in H.M.O.P.No.156 of 2020 on the file of the Sub Court, Devakottai and set aside the same.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondent : Mr.G.Thalaimutharasu



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ORDER

Heard both sides.

2.The respondent herein filed H.M.O.P.No.156 of 2020 on the file of Sub Court, Devakottai for divorce. The respondent also filed I.A.No.2 of 2022 for interim maintenance. The Court below vide order dated 24.07.2024 allowed the IA by directing the revision petitioner herein to pay a sum of Rs.25,000/- towards interim maintenance. Questioning the same, this Civil Revision Petition has been filed.

3.The petitioner herein is said to be working in a private company and earning a sum of Rs.27,000/- per month. The learned counsel for the respondent submits that apart from this monthly salary, the revision petitioner is getting income from other sources and that he is in a well off position. Before the Court below the parties did not adduce any evidence. Before me the only material available is the submission of the petitioner's counsel that the petitioner is earning a sum of Rs.27,000/- per month. There is no other material to assess the income of the revision



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petitioner. I therefore fail to understand as to how the Court below could have awarded a sum of Rs.25,000/- towards interim maintenance.

4.As rightly pointed out by the Court below, the petitioner is obliged to maintain two children born through the wedlock. No definite finding can be arrived at the petitioner as of now. Therefore, the petitioner's obligation to maintain the respondent is also beyond dispute. While I sustain the stand of the Court below that the petitioner is obliged to pay the interim maintenance, the quantum of the interim maintenance can be ascertain only after determining the petitioner's income level. This exercise has not been undertaken by the Court below.

5.In this view of the matter, the impugned order is set aside. The matter is remitted to the file of the Court below for fresh disposal. Since the revision petitioner admittedly earn a sum of Rs.27,000/- per month, the petitioner is obliged to pay a sum of Rs.13,500/- to the respondent herein towards interim maintenance. Whether higher sum has to be awarded or not can be decided by the Court below after directing both the parties to adduce evidence. The petitioner shall pay the arrears as



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computed above within a period of six weeks from the date of receipt of a copy of this order.

6.This Civil Revision Petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

29.10.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

The Sub Court,
Devakottai.



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G.R.SWAMINATHAN, J.

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