



C.R.P(MD)No.2127 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.07.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.2127 of 2019
and
C.M.P(MD)No.11139 of 2019

S.Bibin Starlin

... Petitioner/Respondent
Petitioner

Vs.

1.Mary Merlin

2.B.Bercika

... Respondents/Petitioners
Respondents

*(Minor represented through her mother /
guardian, the first respondent herein)*

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 12.07.2019 passed in I.A.No.1 of 2019 in I.D.O.P.No.350 of 2018 on the file of the learned Additional District and Sessions Judge (Fast Track Court), Kanyakumari at Nagercoil.



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For Petitioner : Mr.M.P.Senthil
For R-1 : Mr.K.Saraswathi
R-2 : Minor represented by R-1

ORDER

The instant revision petition has been filed by the husband, who is the petitioner in I.D.O.P.No.350 of 2018 on the file of the Additional District and Sessions Court (FTC), Kanyakumari at Nagercoil, challenging an order, wherein, interim maintenance has been awarded to the wife and the minor children.

2. The revision petitioner herein as petitioner has filed the above said I.D.O.P for the relief of divorce petition. The wife has filed an application in I.A.No.1 of 2019 seeking interim maintenance. The Trial Court after considering the submissions on either side has directed the husband to pay a sum of Rs.5,000/- to the wife and another sum of Rs.5,000/- to the minor daughter as monthly maintenance. Challenging the said order, the present revision petition has been filed.



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3. According to the learned Counsel appearing for the revision petitioner, he is suffering from brain tumor and he has already undergone one surgery. He is expecting to undergo another surgery. In such circumstances, he is being taken care of his elderly mother and therefore, he is not attending to any work. In such circumstances, he is not in a position to pay the said monthly maintenance amount.

4. Per contra, the learned Counsel appearing for the respondent herein, by filing a typed set of papers, had contended that the family of the husband owns several properties in the Nagercoil Town and therefore, he can pay the said monthly maintenance amount. However, it is the contention of the revision petitioner that the properties have been settled in the name of the revision petitioner's sister in August 2017 much prior to the filing of I.D.O.P. The petitioner is not owning any other property in Nagercoil Town and he is incurring huge expenses towards medical treatment.



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5. Considering the fact that the petitioner is suffering from brain tumor and he has undergone a surgery and also considering the fact that he is expected to undergo another surgery in a few months, this Court is of the considered opinion that, the maintenance amount awarded by the Trial Court could be reduced to Rs.3,000/- each to the wife and the minor daughter. Therefore, the order of the Trial Court in I.A.No.1 of 2019 is hereby modified and the revision petitioner is directed to pay a sum of Rs.3,000/- to the wife and another Rs.3,000/- to the minor daughter as maintenance from the date of filing of I.A.No.1 of 2019. The Trial Court is directed to dispose of I.D.O.P.No.350 of 2018, which is re-numbered as I.D.O.P.No.445 of 2021 and pending on the file of the Family Court, Thuckalay on or before **31.12.2024.**

6. This Civil Revision Petition stands partly allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

10.07.2024



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NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Additional District and Sessions Judge
(Fast Track Court), Kanyakumari,
Nagercoil.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Family Court,
Thuckalay.



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R.VIJAYAKUMAR, J.

BTR

Order made in
C.R.P(MD)No.2127 of 2019

10.07.2024