



CMA(MD)No.1256 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2024

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

CMA(MD)No.1256 of 2022 and
CMP(MD)Nos.12912 of 2022 and 10474 of 2023

Manoharan

... Appellant

vs.

Gokilavathy @ Gokila

... Respondent

Appeal filed under Section 19 of the Family Courts Act, 1984, to call for the records and set aside the order dated 10.11.2022 made in I.A.No.117 of 2022 in HMOP.No.14 of 2021 on the file of the Family Court, Dindigul.

For Appellant : Mr.C.Senthil Murugan
For Respondent : Mr.PT.S.Narendravasan

J U D G M E N T

DR.G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

The appeal is filed by the husband challenging the interim maintenance awarded by the Family Court at the rate of Rs.17,000/- per



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month payable to the wife who is the respondent herein who has preferred the maintenance petition pending disposal of HMOP.No.14 of 2021 preferred by the appellant.

2. The short point involved in this case is whether the fixation of interim maintenance at the rate of Rs.17,000/- per month is excessive or not.

3. When the matter was taken up for consideration, the counsel appearing for the respondent submitted that by preferring the appeal, the appellant has obtained an interim stay on condition that he should pay Rs.10,000/- per month pending disposal of the appeal from the date of stay but he has not paid the arrears of maintenance till the date of interim order of stay. Therefore, this Court directed the appellant herein to pay the difference amount. Accordingly, the appellant has paid a sum of Rs. 1,53,000/- by way of demand draft on 23.01.2024 and the same was recorded.

4. The learned counsel appearing for the appellant submitted that the interim maintenance of Rs.17,000/- was fixed by the Family



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Court taking into consideration of the last drawn salary of the appellant while he was in service. The appellant attained superannuation on 31.05.2023 and from that day onwards he is drawing pension which is almost 50% of the salary he was drawing while in service. Therefore, the interim maintenance of Rs.17,000/- per month fixed by the Family Court based on the salary has to be proportionately reduced based on the pension receivable by the appellant after his retirement.

5. The counsel appearing for the respondent admits that the appellant retired on 31.05.2023, but still submits that fixation of Rs.17,000/- as monthly maintenance is reasonable and need not be altered.

6. The submissions of the counsels considered. The divorce petition was filed by the appellant in the year 2021. Thereafter, on 31.03.2022, the respondent has preferred application for interim maintenance. The Family Court after considering the materials placed by either side by order dated 10.11.2022 has fixed interim maintenance of Rs.17,000/-.



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7. The order of the Family Court challenged in CMA(MD)No. 1256 of 2022 and stay of the order granted on condition to pay Rs.10,000/- per month. As of now, it is admitted by both parties that the appellant has paid interim maintenance of Rs.17,000/- per month from the date of filing the maintenance petition till the date of interim stay granted by this Court in CMP(MD)No.12912 of 2022 dated 05.01.2023 and from that day onwards, a sum of Rs.10,000/- per month is paid till date. During the intervening period, the appellant has retired from service on 31.05.2023 which is a factor to be taken note for altering the interim maintenance amount.

8. Hence, considering the facts on the whole and the payment made so far, this Court modifies the order passed by the Family Court dated 10.11.2022 as below:

(i) From 01.04.2022 to 31.05.2023, the interim maintenance to be paid to the respondent at the rate of Rs.17,000/- per month. Thereafter, it shall be at the rate of Rs.12,000/- per month from 01.06.2023 till the disposal of the HMOP.No.14 of 2021.

(ii) The amount so far paid shall be taken note of and adjusted towards the payment of maintenance as stated above.



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(iii) Any difference to be paid towards interim maintenance as stated above shall be paid within a period of one month from the date of receipt of a copy of this order.

(iv) The Family Court, Dindigul, is directed to dispose of HMOP.No.14 of 2021 preferably within a period of six months from the date of receipt of a copy of this order.

9. With the above direction, the Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(G.J., J.) (C.K., J.)
15.02.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

The Judge,
Family Court,
Dindigul.



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DR.G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

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JUDGMENT MADE IN
CMA(MD)No.1256 of 2022
DATED : 15.02.2024