



**C.M.A(MD)`Nos.1174 & 1175 of 2023**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 22.03.2024**

**CORAM:**

**THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN  
and  
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN**

**C.M.A(MD)Nos.1174 & 1175 of 2023**

**and**

**C.M.P(MD)Nos.15617 & 15618 of 2023**

**and**

**C.M.P(MD)No.3343 of 2023**

**C.Krishnamuthusamy**

**...Appellant in both appeals**

**Vs.**

**K.Chithra**

**...Respondent in both appeals**

**COMMON PRAYER:** Civil Miscellaneous Appeals - filed under Section 19 of the Family Courts Act, 1984 to set aside the judgment and decree dated 14.07.2023 in I.A.No.3 of 2022 & I.A.No.2 of 2022 in H.M.O.P.No. 4 of 2022 on the file of the Family Court, Trichy and allow the appeals.

**Appearance in both appeals:-**

**For Appellant : Mr.H.Lakshmi Shankar**

**For Respondent : Mr.Sethu Surendhar**



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### **COMMON JUDGMENT**

[Judgment of the Court was made by **V.BHAVANI SUBBAROYAN.J.**]

Being aggrieved over the order dated 14.07.2023 passed by the learned Family Court Judge, Trichy, in I.A.No.3 of 2022 & I.A.No.2 of 2022 in H.M.O.P.No.4 of 2022, the appellant has filed the present Civil Miscellaneous Appeals.

2. The appellant is the husband and the respondent is the wife. The marriage between them was solemnized on 11.07.1997. Due to the said wedlock, two female children were born. The appellant husband has filed a petition in H.M.O.P.No.4 of 2022 seeking divorce.

3. Pending the said petition, the respondent wife filed I.A.No.2 of 2022 before the Family Court, Trichy seeking litigation expenses for a sum of Rs.50,000/-. The learned Family Court Judge has partly allowed the said application with a direction to the appellant husband to pay a sum of Rs.5,000/- for litigation expenses either to the credit of her bank account or cash on hand within a period of two months.



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4. The respondent wife also filed I.A.No.3 of 2022 before the Family Court, Trichy seeking monthly interim maintenance for a sum of Rs.30,000/-. The learned Family Court Judge has partly allowed the said application with a direction to the appellant husband to pay a sum of Rs.10,000/- as monthly interim maintenance from 22.08.2022 till the disposal of the HMOP either to the credit of her bank account or cash on hand to be paid on or before 5<sup>th</sup> of every English calendar month.

5. Challenging the aforesaid orders, the appellant husband has filed the present Civil Miscellaneous Appeals.

6. The learned counsel appearing for the appellant husband submits that no oral and documentary evidence has been let in by the respondent wife in support of her claim for monthly interim maintenance and also for litigation expenses. The respondent wife is living with two employed daughters and it could not be stated as “not able to maintain herself”. The learned trial Judge has also not given any reason for having awarded a sum of Rs.10,000/- for monthly interim maintenance and also Rs.5,000/- as litigation expenses. He further submits that the appellant



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husband is working only in the grocery shop and he is not owning the said shop as stated by the respondent wife. Hence, he prayed for allowing the appeals.

7. The learned counsel appearing for the respondent wife submits that the respondent wife is maintaining her two daughters like a single parent. She is facing hurdles even to fulfill the basic needs. The respondent husband is running a grocery shop and earning a sum of Rs.60,000/- per month and he is also owning a house. But, he is deliberately neglecting his responsibilities. He further submits that the appellant husband is not working in the grocery shop, but he is owning the shop. Hence, he prayed for dismissal of the appeals.

8. Heard the rival submissions on either side and perused the materials placed before this Court.

9. It is an admitted case that the appellant and the respondent are husband and wife. The learned Family Court Judge holding that the appellant is obliged to maintain his wife and children, awarded a sum of



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Rs.10,000/- as monthly interim maintenance and also Rs.5,000/- for litigation expenses. There is no material evidence to prove the monthly income of the appellant husband. It is for the respondent wife to let in evidence to prove the appellant husband's monthly income by letting in appropriate evidence, since she only claims the monthly income of the appellant husband as Rs.60,000/-.

10. Having failed to establish that the appellant husband is not working in the grocery shop, but he is owning the grocery shop, this Court is inclined to reduce the monthly interim maintenance from a sum of Rs.10,000/- to a sum of Rs.7,000/-.

11. Barring the above, there are no other modifications to the order dated 14.07.2023 passed by the learned Family Court Judge, Trichy in I.A.No.3 of 2022 & I.A.No.2 of 2022 in H.M.O.P.No.4 of 2022. A direction is also issued to the appellant husband to pay a sum of Rs.7,000/- as monthly interim maintenance till the disposal of the HMOP either to the credit of her bank account or cash on hand to be paid on or before 5<sup>th</sup> of every English calendar month.



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12. With the above directions, this Civil Miscellaneous Appeal in CMA(MD)No.1174 of 2023 is partly allowed and CMA(MD)No.1175 of 2023 is disposed of.

13. The respondent wife is also permitted to withdraw the amount which was already deposited by the appellant husband to the credit of IA No.3 of 2022 in HMOP No.4 of 2022 on the file of the Family Court, Trichy. Accordingly, C.M.P(MD)No.3343 of 2023 is allowed as prayed for. No costs. Consequently, connected miscellaneous petitions are closed.

**(V.B.S.J.) (K.K.R.K.J.)**  
**22.03.2024**

Index :Yes/No  
Internet :Yes/No  
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**To**

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- 1.The Family Court,  
Trichy.
- 2.V.R.Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**V.BHAVANI SUBBAROYAN, J.**  
**and**  
**K.K. RAMAKRISHNAN, J.**

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Common Judgment made in  
**C.M.A(MD)Nos.1174 & 1175 of 2023**

Dated:  
**22.03.2024**