



C.R.P.No.447 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 31.01.2025

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.447 of 2024 &
CMP.No.2133 of 2004

K.Suganya

.. Petitioner

Versus

A.S.Sankar

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 06.10.2023 passed in I.A.No.3 of 2023 in HMOP.No.44 of 2022 on the file of the Subordinate Court, Rasipuram.

For Petitioner : Mr.S.Senthil

For Respondent : Mr.V.Regunathan

ORDER

This civil revision petition arises against the order passed by the learned Subordinate Judge at Rasipuram in I.A.No.3 of 2023 in



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HMOP.No.44 of 2022 dated 06.10.2023.

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2. The civil revision petitioner is the wife. The respondent is the husband. They entered into matrimony on 11.06.2009. From the wedlock, two female children were born to the couple. The elder child is aged about 13 years and the younger one is aged about 10 years. Due to disputes and differences, the parties separated.

3. The husband moved a petition for divorce before the learned Subordinate Judge at Rasipuram. He presented the petition invoking Section 13(1)(ia) and Section 13(1)(ib) of the Hindu Marriage Act. He pleaded that the wife left the matrimonial home on 19.11.2018, thereby deserting him. He pleaded that the wife had treated him with cruelty during the time when they were living together. He also added that the marriage had irretrievably broken down. He pleaded that he sought for consent divorce and the wife did not agree to the same.

4. On being served with the summons in the suit, the wife filed a detailed counter. According to her, the husband did not maintain the privacy



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in the marriage. She pleaded that the husband used to constantly pick up quarrels with her questioning her fidelity. She pleaded that she had been treated with cruelty by the husband and that, her character was assassinated by his relatives. On these and other pleadings, she sought for dismissal of divorce petition.

5. Soon after filing of the counter in the divorce petition, she presented an application seeking maintenance under Section 24 of the Hindu Marriage Act. She wanted a direction that the respondent shall pay a sum of Rs.30,000/- per month towards interim maintenance for herself and Rs.15,000/- to each of the children, cumulatively seeking a direction for payment of Rs.60,000/- towards maintenance and Rs.60,000/- towards litigation expenses.

6. She pleaded that the husband holds a Doctorate in his field and that, he is working as a Bio-Medical Engineer at Raja Muthaiah Medical College, Annamalai University, Chidambaram. She stated that his monthly salary is around Rs.1,30,000/-. She pointed out that the husband is having

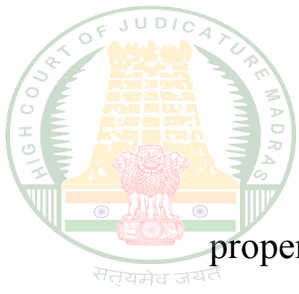


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1.5 acres of land in Aluthupalayam Village, in which he is cultivating cash crops like Tapioca, Sugarcane, Turmeric and other seasonal crops. From agriculture, she alleged, the husband is generating a sum of Rs.1,20,000/- per year.

7. She pleaded both the children are studying in school. The first child is studying in 8th standard and the second is in fourth standard. Apart from that, the children are also attending private tuitions. She pleaded that she has no independent income and, she and her children are depending upon her parents. This application was numbered as IA.No.3 of 2023.

8. Notice was ordered in the application to the respondent/husband. The husband filed a detailed counter. He admitted, he holds a Doctorate in his subject and that, he is working in the Annamalai University as a Bio Medical Engineer. He pleaded that his monthly salary is Rs.91,770/- and produced his salary slip. Insofar as agricultural land is concerned, he pleaded that he is not the absolute owner of the property but it is his father, who is the owner of the property. He stated he has no absolute right over the

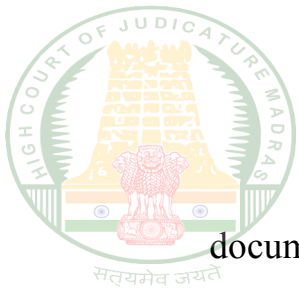


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property and that the land is not a fertile land. He alleged that he is taking care of his parents, who are senior citizens. In addition, he pointed out he is spending a sum of Rs.1,30,626/- towards 10 LIC policies that he had taken. He pleaded that he had appointed his wife as his nominee in the LIC policies.

9. The respondent/husband added that out of the net income of Rs.90,000/-, he is spending a sum of Rs.70,000/- towards the aforesaid expenditure and that, he is not in a position to pay the amount of maintenance sought for by the wife. He pointed out that the wife holds a Master of Computer Applications degree and is drawing a monthly salary of Rs.40,000/-. He further stated that his father-in-law is a retired TANGEDCO employee and is receiving Rs.50,000/- per month as pension. He stated since it was the wife who had deserted him and as she had treated him with cruelty, she is not entitled for maintenance.

10. The learned Trial Judge took up the application for disposal. Neither party entered the witness box. On the side of the husband, three



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documents were filed namely Ex.B1 to Ex.B3. Ex.B1 is the salary certificate and Ex.B2 and Ex.B3 are the LIC insurance policies and receipts. The learned Trial Judge came to a conclusion that the husband is duty bound to maintain the wife. He held that as the husband is paying insurance policies as evident from Ex.B2 and Ex.B3, the husband needs to pay a sum of Rs.3,000/- per month as maintenance to the wife and children. No amount was given towards litigation expenses. Aggrieved by the said order, the wife is on revision before me.

11. I heard Mr.S.Senthil for the civil revision petitioner and Mr.V.Regunathan for the respondent/husband.

12. The learned counsels reiterated the contentions they placed before the court below.

13. I have gone through the records and have perused the impugned order.



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14. The relationship between the parties and the birth of the two children are admitted. The fact that the two children are studying in school is admitted. It is also admitted that the husband holds a Doctorate and is working in the prestigious Annamalai University as a Bio Medical Engineer. The salary slip of the husband shows that he is earning a sum of Rs.1,27,700/- and his net take home is Rs.91,770/-. For the mere fact, he is paying premium for LIC policies does not mean that the wife and children should get only a sum of Rs.3,000/- cumulatively, which is a sum of Rs.1,000/- per head and this is niggardly and inadequate.

15. The principle of law relating to quantification of maintenance has been settled by the Supreme Court in **Rajiv Verghese v. Rose Chakkramankkil Francis, 2024 SCC OnLine SC 3367**. The Supreme Court had directed that a wife is entitled to be maintained in the same status and station as she would have been maintained if she continued to live in the matrimonial home. When the salary of the husband is admittedly a sum of Rs.91,770/-, it is beyond my comprehension as to how he would have

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spent only a sum of Rs.1,000/- for the wife and Rs.1,000/- for each of the two children. The conclusion of the learned Trial Judge on the amount does not follow the principle of law laid down by the Supreme Court. Hence, it necessarily requires to be interfered with.

16. The fact that the husband is maintaining his parents does not mean he is not liable to maintain his wife and children. Maintaining one's parents does not mean that the husband need not maintain his wife and children. Had the parties lived together, apart from maintaining his wife and children, the husband would have certainly maintained his parents also. Though the husband has pleaded that the wife is working in a private concern at Namakkal and is generating a sum of Rs.40,000/- per month, no evidence has been produced before the court in order to substantiate the said plea. Hence, this court cannot come to a conclusion that the wife is employed and is able to maintain herself.

17. Under Section 24 of the Hindu Marriage Act, if the spouse is unable to maintain himself or herself, he or she can make a demand on the



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other spouse who is earning, to maintain him or her during the course of any proceeding under the Act. The earning spouse would not only be liable to pay maintenance but would also have to pay litigation expenses. The learned Trial Judge has not given any reason as to why he had not granted the litigation expenses.

18. With two school going children, the mother would obviously be incurring expenses towards food, clothing, transportation, education, etc. Though she has pleaded that she is sending the children to extracurricular activities, no proof has been produced before the court. The mother has given the details about the children studying in a Senior Secondary School at Rasipuram.

19. Taking into consideration the status of the parties, and the position occupied by the husband and his education, this court is inclined to allow this revision. The order passed by the learned Trial Judge in I.A.No.3 of 2023 in HMOP.No.44 of 2022 dated 06.10.2023 is set aside, insofar as fixation of monthly maintenance of Rs.3,000/- is concerned. This court is of



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the view had the parties lived together, the husband would have spent at least Rs.10,000/- on the wife and Rs.7,500/- on each of the children.

20. This civil revision petition succeeds on the following terms:

(i) husband shall pay a sum of Rs.10,000/- per month to the civil revision petitioner wife and Rs.7,500/- per month to each of the daughters. Cumulatively, he shall pay a sum of Rs.25,000/- to his wife and children.

(ii) on the production of the bills by the wife to the husband as regards school fees, the husband shall directly pay the fees to the school.

(iii) The liability of maintenance arises from November 2022 onwards.

(iv) The arrears shall be paid within a period of 10 weeks from the date of receipt of a copy of this order.

(v) In case of any default in payment of monthly maintenance or the arrears pursuant to this order, the learned Trial Judge shall ensure that the husband makes good the payments and only thereafter proceed with the divorce petition.

(vi) The wife shall also be entitled to litigation expenses of Rs.30,000/-.



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WEB COPY No costs. Consequently, the connected miscellaneous petition is closed.

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Index : yes/no

Speaking order/Non-speaking order

Neutral Citation : yes/no

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V.LAKSHMINARAYANAN, J.

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