



C.M.A.(MD) No.881 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2025

CORAM

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.(MD) No.881 of 2024

and

C.M.P.(MD) No.9471 of 2024

1.Jessy Priscilla

2.Minor Arokia Rabela
represented by her mother
and guardian Jessy Priscilla

... Appellants

Vs.

Anthony Anis

... Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 55 of the Indian Divorce Act, 1872 to set aside the fair and decretal order dated 12.04.2024 passed in I.A.No.2 of 2022 in I.D.O.P.No.143 of 2020 on the file of the I Additional District Court, Tirunelveli.

For Appellants : Mr.P.Vadivel

For Respondent : Mr.K.Sivabalan
for M/s.Aran Legal Consultancy



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J U D G M E N T

WEB COPY Being aggrieved by the fair and decreetal order dated 12.04.2024 passed by the learned I Additional District Judge, Tirunelveli, in I.A.No.2 of 2022 in I.D.O.P.No.143 of 2020, the wife/respondent in I.D.O.P.No. 143 of 2020, along with her minor child, has preferred this Civil Miscellaneous Appeal for enhancement of interim maintenance.

2. Heard the learned counsel for the appellants, Mr.P.Vadivel and the learned counsel for the respondent, Mr.K.Sivabalan and perused the relevant records.

3. Originally, the respondent/husband, Anthony Anis, filed a divorce petition under Section 10(1)(x) of the Indian Divorce Act, 1872, before the Principal District Court, Tirunelveli, in I.D.O.P.No.143 of 2020. During the pendency of the said I.D.O.P., the appellants/wife and her minor child filed an interim application in I.A.No.2 of 2022 for an order of interim alimony of Rs.25,000/- each for the appellants and litigation costs of Rs.10,000/- under Sections 36 and 151 of the Indian Divorce Act, 1872.



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4. Upon consideration, the trial court ordered a sum of Rs.5,000/- per month for each appellant from the date of filing of the petition till the date of disposal of the I.D.O.P., against which the present Civil Miscellaneous Appeal has been filed.

5. On behalf of the appellants, it is stated that the respondent/husband has been running a petrol bunk at Vallioor and has rented out several shops, receiving monthly rents; that, besides that, he is also earning an income of Rs.1,00,000/- per month from his agricultural land; that he is living a luxurious life with furniture and A.C.; that he is duty-bound to maintain his wife and child on par with his standard of living, but he has failed to do so; and that, although the first appellant has completed a Master's degree in Engineering, she is not employed and is dependent upon her parents for her maintenance and her child's maintenance.

6. On behalf of the respondent/husband, it is stated that the family of the first appellant/wife is running M/s.Raj Match Industry, M/s.Amalraj Match Works, M/s.Arockiam Match Works, M/s.Plaza Match Works, etc.,



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and her father is a partner in the aforementioned firms; that his wife's native place is Kuruvikulam Village, and her parents own a house there, two four-wheelers, and she along with their parents is living with all facilities; that he did not desert his wife, but it is the wife who is not interested in family life, and after the birth of the child, she has been living with her parents; and that, thereafter, he filed the petition for divorce.

7. On behalf of the respondent/husband, it is further stated that he has availed a four-wheeler loan from a finance company; that in the petrol bunk business, he has incurred a loss of several lakhs of rupees; that he has pledged his house with HDFC Bank and obtained a loan of Rs. 9,00,000/-; that he has also obtained a loan from Karur Vysya Bank; that he has obtained loans from Tamil Nadu Mercantile Bank by pledging jewels and another house; and that he has been repaying the said amounts and is therefore under financial constraints.

8. The Birth Certificate of the second appellant is Ex.P1. The Sale Deeds executed in favour of the respondent are Exs.P2 and P4. The Settlement Deeds executed in the name of the respondent are Exs.P3 and



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P5. The Income Tax Return for the Assessment Year 2019-2020 is Ex.P6, wherein the Gross Income is mentioned as Rs.12,09,414/-.

9. The concept of maintenance is a measure of social justice in order to help a helpless wife. The law is well-settled that wife is entitled to live on par with the status of her husband. It is the responsibility of the husband to file a statutory application to ensure that his wife does not become destitute. Factors such as the husband's standard of living, his family's circumstances, his assets, and etc. are to be taken into consideration while determining the amount of maintenance.

10. Though the respondent has stated that he has obtained loans from several banks and is under financial constraints, in the absence of any documentary evidence to substantiate the same, this Court is not in a position to appreciate those details. Relying upon Ex. P6, the Income Tax Return, his monthly income is shown as Rs.1,00,784/- [12,09,414 / 12].

11. Exs.P2 and P4 (Sale Deeds) show that the respondent purchased properties in the years 2018 and 2023, respectively. In addition, Exs.P3 and P5 (Settlement Deeds) were executed in favour of the respondent.



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Ex.P6 (Income Tax Return for the Assessment Year 2019-2020) clearly indicates that his only income during that period was Rs.1,00,784/- [12,09,414 / 12]. The interim application was filed in the year 2022. In the light of the aforementioned Sale Deeds, Settlement Deeds, and Income Tax Return, the interim maintenance is enhanced and fixed at Rs.8,000/- per month for each appellant, in order to meet the ends of justice.

12. Based on the above observations, this Civil Miscellaneous Appeal is allowed with the following directions:

- i. The interim maintenance of Rs.16,000/- (i.e., Rs. 8,000/- for each) shall be paid on or before the 5th of every English calendar month.
- ii. The arrears of maintenance shall be paid within a period of three months from the date of receipt of a copy of this judgment.
- iii. There shall be no order as to costs.
- iv. The connected Civil Miscellaneous Petition is closed.

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Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order
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- 1.The I Additional District Judge,
Tirunelveli,
Tirunelveli District.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras high Court,
Madurai.



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R.KALAIMATHI, J.

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