

(2013) 10 MAD CK 0120

Madras High Court

Case No: C.M.A. No. 3152 of 2013

Balachandran

APPELLANT

Vs

M. Lakshmi

RESPONDENT

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**Date of Decision:** Oct. 31, 2013**Hon'ble Judges:** R. Sudhakar, J; Pushpa Sathyanarayana, J**Bench:** Division Bench**Advocate:** K.F. Manavalan, for the Appellant; S. Parthasarathy, for the Respondent**Final Decision:** Dismissed

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### Judgement

Pushpa Sathyanarayana, J.

This appeal is preferred against the order dated 30.4.2013 passed in I.A. No. 2237 of 2012 in O.P. No. 2967 of 2010 by the learned Principal Judge, Family Court, Chennai. The facts in a nutshell are as follows: The appellant (husband) has filed an Original Petition against the respondent (wife) u/s 13(1)(ia) of the Hindu Marriage Act, 1955 seeking dissolution of marriage and custody of the minor male child Nishant. In that original petition, the respondent (wife) filed an interlocutory application in I.A. No. 2237 of 2012 u/s 24 of the Hindu Marriage Act, 1955 seeking interim maintenance at the rate of Rs. 30,000/- per month for self and Rs. 20,000/- per month for the minor child, apart from litigation expenses of Rs. 10,000/-.

1.2. In the said interlocutory application, the respondent (wife) has pleaded that the appellant (husband) was employed in Birla Standard Life Insurance Company as a Branch Manager and was earning more than Rs. 75,000/- per month and that he resigned the said job and left to Dubai and is presently earning a sum of Rs. 1,50,000/- per month. She has further alleged that the appellant (husband) has neglected her and the minor child and they are under the care and custody of her parents. The fact that the appellant (husband) was working as the Branch Manager of Birla Standard Life Insurance Company at the time of filing the Original Petition is admitted by him.

1.3. The said claim made by the respondent (wife) was refuted by the appellant (husband) stating that salary quoted in the interlocutory application is very high and presently he does not have a fixed monthly salary and he is working only on commission basis. The further reason stated by him is that he was forced to resign the job with the Birla Standard Life Insurance Company because of the constant torture and harassment by the respondent (wife).

1.4. The learned Principal Judge, Family Court, Chennai, after considering rival contentions, had ordered payment of monthly interim maintenance of Rs. 20,000/- to the respondent (wife) and the minor son together, apart from Rs. 10,000/- towards litigation expenses. Aggrieved by the said order, the appellant (husband) has come up with the present appeal.

2. We have heard the learned counsel for the appellant and the respondent and perused the documents filed in support of this appeal.

3. It is not in dispute that the appellant (husband) is having qualifications of B.E. and M.B.A. He had been in various jobs in the rank of Manager even prior to working as Branch Manager in Birla Standard Life Insurance Company. Going by the qualifications of the appellant (husband), he seems to be changing jobs frequently for earning more. The appellant (husband) has not produced any document to dispute the contention of the respondent (wife), who has made a claim that he is earning more than Rs. 1,50,000/- per month. That apart, it is not in dispute that the respondent (wife) is unemployed.

4. Considering the status of the parties, it is clear that the appellant (husband) is capable of paying monthly interim maintenance of Rs. 20,000/- to the respondent (wife), who is unemployed, and the minor child and it is the paramount duty of the husband to maintain the wife and minor child.

5. That apart, this Court considering the necessities of the respondent (wife) to live a similar life style as she enjoyed in the matrimonial home keeping in mind the food, clothing, educational and medical needs of the wife and the minor child, and the age of the appellant (husband), who was 31 years at the time of filing of the Original Petition; the age of the respondent (wife), who was 26 years at the time of filing the Original Petition; and the age of the minor child, who was seven years, is of the firm view that the amount of maintenance awarded by the learned Principal Judge, Family Court, Chennai is justified and does not warrant any interference.

6. For the foregoing reasons, this appeal is dismissed. No costs. At this juncture, the learned counsel for the appellant (husband) pleaded that the appellant (husband) is presently working in Dubai and as and when he comes to India, he must be permitted to visit the minor child. The learned counsel for the respondent, on instructions, states that the appellant (husband) can visit the minor child during holidays, after giving prior notice to the learned counsel for the respondent as well as the respondent (wife). The parties agreed to the said arrangement by mutual

consent and the same is recorded.