
(2011) 08 MAD CK 0235

Madras High Court (Madurai Bench)

Case No: C.R.P. (PD) (MD) No. 1115 of 2008 and M.P (MD) No. 1 of 2008

Dr. Prabhu Srinivasan

APPELLANT

Vs

Ramaprabha

RESPONDENT

Date of Decision: Aug. 29, 2011

Citation: (2011) 08 MAD CK 0235

Hon'ble Judges: C.S. Karnan, J

Bench: Single Bench

Advocate: K. Balasundaram, for the Appellant; D. Rajagopal, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

C.S. Karnan, J.

The revision Petitioner has filed the above revision to set aside the fair and decretal order dated 14.03.2008 in I.A. No. 8

of 2007 in H.M.O.P. No. 69 of 2004 on the file of the Additional Subordinate Judge, Kumbakonam, Thanjavur District.

2. The brief facts of the case are as follows:

The revision Petitioner/husband has filed H.M.O.P. No. 69 of 2004 against his wife for divorce for dissolving the marriage which was solemnized

on 06.02.2003 between the Petitioner and Respondent on the ground of cruelty. The said case has been filed before the Principal Subordinate

Court, Kumbakonam. The Respondent/wife had filed counter statement and resisted the divorce petition. while so, the Respondent/wife has filed

an interlocutory application in I.A. No. 8 of 2007 in H.M.O.P. No. 69 of 2004 on 05.06.2007 for interim maintenance of a sum of Rs. 70,000/-

per month to her child and herself. Besides the Respondent/wife has also prayed for payment of a sum of Rs. 1,50,000/- for contesting the case

and a further sum of Rs. 1,00,000/- for dress, medical expenses and for festival expenses.

3. The revision Petitioner/husband has filed counter statement and opposed the interim maintenance case on various grounds. The learned Judge,

after hearing the arguments of the counsels on both the sides and on perusing the averments of both the parties, allowed the interlocutory

application in part, stating that the revision Petitioner/husband has pay Rs. 10,000/- per month as maintenance to his wife, and another Rs.

10,000/- per month as maintenance to his son. The learned Judge had also ordered for payment of a sum of Rs. 50,000/- by the husband as

litigation charges to his wife.

4. Aggrieved by the said decree and decretal order, the above revision petition has been filed by the revision Petitioner. The Learned Counsel for

the Petitioner argued that the Respondent is also a qualified doctor and she is economically well of. As such, the interim maintenance order is not

sustainable. The learned Judge, erroneously had ordered for payment of a sum of Rs. 20,000/- towards maintenance to the Respondent and the

child. This amount is on the higher side since the revision Petitioner does not have sufficient income from his profession to comply with the order.

The revision Petitioner is not even getting a sum of Rs. 5000/- per month through his profession. The Respondent is running a clinic and had

employed assistant doctors, nurses, and technicians including driver. It clearly proved that the Respondent gets sufficient income through her

profession. Therefore, the Respondent/wife is not entitled to receive any maintenance from the revision Petitioner.

5. The Learned Counsel for the Respondent/wife argued that the Respondent has joined in a master degree course and as such she is a student,

and not an earning doctor. Further, the child is with the Respondent and she has to provide good education, dress and rich food to the child.

Therefore, the revision Petitioner is liable to pay maintenance to the Respondent and the child. The learned Judge, after considering the contentions

laid down on both sides had passed the interim maintenance, to the Respondent. This order is a well considered one. As per order of the learned

Judge, the revision Petitioner is liable to pay about Rs. 10,00,000/- i.e., from the date of filing the interim maintenance application till date, but the

revision Petitioner has wantonly and deliberately evading payment of maintenance, even though he gets sufficient income.

6. In view of the facts and circumstances of the case and arguments advanced by the Learned Counsel on either side and on perusing the

impugned order of the learned Judge, this Court is of the considered opinion that the learned Judge had ordered for a sum of Rs. 10,000/- to be

paid as maintenance to the child, which is fair and justifiable.

7. Regarding the maintenance to the Respondent/wife, the learned Judge has to conduct a detailed enquiry after recording evidence from the

revision Petitioner and the Respondent as to whether the Respondent gets sufficient income to maintain herself and also find out the revision

Petitioner's gross income and decide the issue. Therefore, the maintenance granted to the wife, i.e., a sum of Rs. 10,000/- per months from the

date of maintenance application till date is set aside. Regarding the litigation charges, a sum of Rs. 50,000/- has been awarded by the tribunal,

which is on the higher side. Hence, this Court reduces the amount granted towards litigation charges to Rs. 25,000/- as it is found to be fair and

justifiable. This Court further directs the revision Petitioner to pay the monthly maintenance a sum of Rs. 10,000/- to his son, as per learned Judge

order, from 05.06.2007 till date; along with litigation charge of a sum of Rs. 25,000/- out of this total amount, the Petitioner shall pay a sum of Rs.

2,50,000/- within a period of four weeks from the date of receipt of this order by way of demand draft drawn in favour of the Respondent/wife.

The balance of maintenance payable to the child shall be cleared within a period of seven months from the date of receipt of this order.

Accordingly ordered.

8. In the result, the above revision petition is allowed in part with the above observations. Consequently, the order and decretal order passed in

I.A. No. 8 of 2007 in H.M.O.P. No. 69 of 2004 on the file of the Additional Subordinate Court, Kumbakonam is modified. Connected

miscellaneous petition is closed. There is no order as to costs.