
(2009) 02 MAD CK 0081
In the Madras High Court
Case No : C.R.P. (PD) 1276 of 2008

A. Santhosamary and Maria Monica rep. by her mother	APPELLANT
Vs	
J. Anthony Emmanuvel	RESPONDENT

Date of Decision : 16-02-2009

Acts Referred:

Divorce Act, 1869 — Section 41

Citation : (2009) 02 MAD CK 0081

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : No appearance, for the Appellant; No appearance, for the Respondent

Judgement

G. Rajasuria, J.—Inveighing the order dated 11.01.2008 passed by the learned Principal Judge, Family Court, Madras in I.A. No. 2433 of 2006 in OP No. 1518 of 2006, this civil revision petition is focussed.

2. Despite printing the names of the learned Counsel on either side repeatedly, no one represented.

3. Tersely and briefly, pithily and precisely, the relevant facts, which are absolutely necessary and germane for the disposal of this civil revision petition would run thus:

The respondent/husband herein filed O.P.No.1518 of 2006 seeking divorce invoking the provisions of the Indian Divorce Act, 1869. During the pendency of the said OP, the revision petitioners herein filed I.A. No. 2433 of 2006 u/s 41 of the Indian Divorce Act, 1869 seeking interim maintenance in favour of the minor child in a sum of Rs. 3,000/- per month and she also prayed for awarding a sum of Rs. 15,000/- towards cost of litigation. The Family Court after hearing both sides awarded interim maintenance in a sum of Rs. 600/- per month payable by the husband/respondent herein in favour of the child and a sum of Rs. 2,000/- was ordered to be paid by the husband to the wife towards cost of litigation. Being disconcerted by the order of the Family Court, the revision petitioners

herein filed this revision on various grounds inter alia thus:

The Family Court awarded only a pittance as interim maintenance and it is against the well settled proposition of law relating to awarding of interim maintenance.

4. A bare perusal of the order of the Family Court as well as the typed set of papers would demonstrate and exemplify that the order of the lower Court is far from satisfactory. After putting forth and setting out certain facts on either side, simply the Court awarded a sum of Rs. 600/- as interim maintenance in addition to awarding a sum of Rs. 2,000/- towards litigation expenses. As per the admission of the wife herself, she was earning a sum of Rs. 4,500/- per month as a computer operator in L and G Finance Services- a private concern. On the other hand, as revealed by Ex.R1, the husband has been earning a sum of Rs. 2,500/- per month. It appears he is a D.M.E qualified personnel working in FRVe Industries, Madambakkam, Chennai. The liability of the husband to maintain his minor child aged 3 1/2 years old, cannot be disputed. In this peculiar case, the wife herself is not claiming any interim maintenance in view of her earnings as set out supra.

5. The question arises as to whether her earnings would be sufficient to maintain herself as well as her children. A lady working in a private concern as computer operator would require at least a sum of Rs. 150/- per day to keep her body and soul together, to keep the wolf from the door, to keep the pot boiling and to have creature comforts in addition to meet her travelling expenses and medical expenses. Accordingly, if worked out for 30 days, it comes to Rs. 4,500/- per month. In such a case, I am at a loss to understand as to how the husband could state that the wife should maintain the child. The husband should be happy that the wife is not claiming any maintenance from him. But she claims maintenance only for the child.

6. Here, a child of 3 1/2 years old, nowadays would require at least a sum of Rs. 40 to 50/- per day so as to meet all its requirements including medical, transport and other basic facilities and it would come to Rs. 1,200/- p.m. But the lower Court awarded only a sum of Rs. 600/- , which cannot be countenanced and upheld as an appropriate and apposite, just and legal one. Hence, the interim maintenance of Rs. 600/- p.m awarded by the lower court is increased to Rs. 1,200/- per month from the date of the filing of the I.A., viz., 14.09.2006 till the disposal of the O.P. Regarding the awarding of a sum of Rs. 2,000/- by the lower court towards litigation expenses, warrants no interference.

7. Accordingly, this civil revision petition is partly allowed directing the respondent/husband to pay a sum of Rs. 1,200/- (Rupees one thousand and two hundred only) per month from the date of filing of the I.A., viz., 14.09.2006 till the disposal of the O.P. No costs. Consequently, the connected miscellaneous petition is closed.