

(2008) 09 MAD CK 0018

In the Madras High Court

Case No : C.R.P. (PD) No. 3023 of 2008 and M.P. No. 1 of 2008

G. Kanchana

APPELLANT

Vs

S. Ganesan

RESPONDENT

Date of Decision : 10-09-2008

Acts Referred:

Hindu Marriage Act, 1955 — Section 24

Citation : (2009) 2 LW 826

Hon'ble Judges : S. Rajeswaran, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S. Rajeswaran , J.—This Civil Revision Petition has been filed by the petitioner to direct the II Additional Judge, Family Court, Chennai to

take up I.A.S.R. No. 580 of 2006 kept pending on the file of O.P. No. 2581 of 2008 and dispose of the same. The respondent/wife in O.P. No.

2581 of 2006 is the revision petitioner before this Court. The O.P. No. 2581 of 2006 has been filed by the respondent herein/husband for

divorce. Pending O.P. an application in I.A.S.R. No. 580 of 2008 has been filed by the petitioner/wife for interim maintenance. The said

application has been kept pending on the file of II Additional Judge, Family Court, Chennai without even being numbered. However, the main O.P.

is being proceeded with. Hence, the above civil revision petition has been filed for a limited prayer of seeking direction from this Court to the II

Additional Judge, Family Court, Chennai for early disposal of the I.A.S.R. No. 580 of 2008 filed by the petitioner/wife for maintenance.

2. I have heard the learned counsel appearing for the petitioner and I have also gone through the documents filed in support of her submissions.

3. The learned counsel appearing for the petitioner submits that the petitioner/wife is aged about 50 years and the respondent/husband is aged about 56 years. At that stage the respondent/husband has filed the petition in O.P. No. 2581 of 2006 for divorce before the II Additional Judge, Family Court, Chennai. It is stated that the petitioner/wife was getting a maintenance amount of Rs. 5,000/-p.m. from the respondent/husband on his own volition. But, suddenly the respondent/husband reduced the maintenance amount from Rs. 5,000/- to Rs. 2,000/-. Therefore, She filed an application in I.A.SR. No. 580 of 2008 for interim maintenance of Rs. 6,000/-. The said application has been kept pending in SR stage without even numbering the same. Notwithstanding that the Family Court is proceeding with the main O.P. for divorce. Hence, she has filed the above civil revision petition for a limited prayer seeking direction from this Court directing the II Additional Judge, Family Court, Chennai to dispose of the I.A.SR. No. 580 of 2008 before proceeding with the main O.P. for divorce.

4. It is settled law that when a petition is filed u/s 24 of the Hindu Marriage Act for maintenance a duty is cast upon the Family Court to pass orders in the application on merits before proceeding with the main O.P. Hence, I direct the II Additional Judge, Family Court, Chennai to number the I.A.SR. No. 580 of 2008 filed by the petitioner/wife for maintenance first and dispose of the same within one month on merits and in accordance with law and thereafter to decide the main O.P. No. 2581 of 2006 filed for divorce. In the result, the civil revision petition is allowed.

No costs. Consequently, connected M.P. No. 1 of 2008 is closed.