

S. Prakash Vs. Mita Hamsagar

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Court : Karnataka

Decided On : Jul-10-2015

Judge : A.S. Bopanna

Appeal No. : Writ Petition No. 936 of 2014 (GM-FC)

Appellant : S. Prakash

Respondent : Mita Hamsagar

Judgement :

(Prayer: This Writ Petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the order passed on IA. No. 11 in MC. No. 3203/11 dt. 24.8.13, on the file of 1 Addl Prl. Family Judge, Bangalore vide Ann-E.)

1. The petitioner is before this Court assailing the order dated 24.08.2013 impugned at Annexure-E to the petition.

2. The petitioner herein is the husband of the respondent. There is no dispute with regard to the relationship between the parties. The respondent herein has instituted a petition before the Court below in MC. No. 3203/2015. During the pendency of the said petition, the respondent herein filed an application under Section 24 of the Hindu Marriage Act, seeking maintenance at the rate of Rs. 35,000/- per month, pending disposal of the petition. The Court below after considering the rival contentions has directed the payment of maintenance at Rs. 10,000/- to the respondent herein and Rs. 5,000/- to the child of the parties. The

petitioner claiming to be aggrieved by the same is before this Court.

3. Learned counsel for the petitioner while assailing the order passed by the Court below would refer to the averments made in the application filed by the respondent to contend that the respondent was in a position to earn her livelihood.

4. During pendency of this petition, the parties have also filed their memos enclosing therewith the documents indicating each others income. When the matter was being considered before the Court below the contentions urged by the respondent herein was that her husband i.e. petitioner herein is earning Rs. 98,000/- per month. Including the interest that has been earned from the fixed deposit and other bank balance, the monthly income was stated as Rs. 1,50,000/- per month. The petitioner has presently relied upon a document to contend that his is presently working for a salary of Rs. 11,000/- per month with Sam Systems.

5. Learned counsel for the respondent has however relied upon the document produced along with the memo dated 22.07.2014 to point out that the petitioner is working for Microsoft Global Services Centre (India) Private Limited and the Bank account of the petitioner in the ICICI Bank is referred to point out the claim of salary i.e. being credited to the account of the petitioner. Similarly, the learned counsel for the petitioner has referred to the memo filed by the learned counsel for the respondent on 12.09.2014 to point out that the respondent herein is admittedly earning a sum of Rs. 35,946/- per month.

6. As against the said documents relating to the income of the petitioner and the respondent, the learned counsel for the petitioner would however contend that the income as indicated in the proceedings before Court below and the reference made to the Bank account is pertaining to the period 2009. It is also his contention that from the documents produced along with memos it would indicate that the petitioner in fact has transferred substantial amount to the tune of Rs. 14,00,000/- to the account of the respondent. Though, the said contentions are noticed what is necessary be considered herein is with regard to the interim maintenance.

7. At this juncture there is no dispute that both the petitioner and respondent have independent income to support themselves. In the light of the documents that have

been relied upon from the point when admittedly the petitioner was drawing huge amount during the year 2009, it is difficult to accept that he is earning only Rs. 11,000/- per month at this point. Since, at present, I have concluded that the petitioner as well as the respondent have sufficient income to maintain themselves and taking note of the huge finance transactions that have been made and the income that is being earned by the parents, even in such circumstances when admittedly they have a child, the child would require maintenance. If the standard of the living of the parents is taken into consideration, certainly the child in any event would require more than Rs. 15,000/- per month. Therefore, in the instant case, though, the trial Court has awarded the maintenance by proposing at the rate of Rs. 10,000/- per month to the respondent and Rs. 5,000/- to the child, the order is modified only to hold that the entire sum of Rs. 15,000/- as ordered by the Court below shall be treated as the maintenance of the child to be contributed by the petitioner herein. Hence, the quantum of amount as ordered is not disturbed. The said amount shall be paid in the same manner as directed by the Court below to be considered as the maintenance for the child. Such payment shall be continued to be made by the petitioner during pendency of the petition.

8. In terms of the above, the petition stands disposed of.

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