

Senthil @ Senthil Kumar Vs. Sujatha

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Court : Chennai Madurai

Decided On : Nov-23-2016

Judge : D. Krishnakumar

Appeal No. : C.R.P (PD) (MD) Nos. 1363 & 1364 of 2011 & M.P (MD) No. 1 of 2011

Appellant : Senthil @ Senthil Kumar

Respondent : Sujatha

Judgement :

(Prayer: in C.R.P(PD)(MD)No.1363 of 2011: Civil Revision Petition filed under Article 227 of the Constitution of India, praying this Court to call for the records relating to the impugned order passed in I.A.No.993 of 2010 in H.M.O.P.No.62 of 2004, dated 15.6.2011 on the file of the Principal Sub-Court, Kumbakonam and to set aside the same as illegal.

Prayer in C.R.P(PD)(MD)No.1364 of 2011: Civil Revision Petition filed under Article 227 of the Constitution of India, praying this Court to call for the records relating to the impugned order passed in I.A.No.570of 2008 in H.M.O.P.No.62 of 2004, dated 23.2.2010 on the file of the Principal Sub-Court, Kumbakonam and to set aside the same as illegal.)

Common Order:

1. C.R.P(PD)(MD)No.1363 of 2011 has been filed to call for the records relating to the impugned order passed in I.A.No.993 of 2010 in H.M.O.P.No.62 of 2004, dated 15.6.2011 on the file of the Principal Sub-Court, Kumbakonam and to set aside the same as illegal.

2. C.R.P(PD)(MD)No.1364 of 2011 has been filed to call for the records relating to the impugned order passed in I.A.No.570 of 2008 in H.M.O.P.No.62 of 2004, dated 23.2.2010 on the file of the Principal Sub-Court, Kumbakonam and to set aside the same as illegal.

3. The Petitioner has filed H.M.O.P.No.62 of 2004 under Section 11 r/w Section 5(ii) and Section 12 (1)(a) of the Hindu Marriage Act, to pass a decree in favour of the Petitioner and against the respondent declaring the marriage between them which was solemnized on 31.5.2004 at Madhavan Seethaiyammal Marriage Hall, Bazaar Street, Dharasuram, Kumbakonam Taluk, as null and void and for costs. In the aforesaid O.P, the respondent herein filed an application in I.A.No.570 of 2008 claiming maintenance at Rs.2000/-p.m and another sum of Rs.3000/- towards litigation expenses. The said application was allowed by the trial Court and directed the revision petitioner to pay a sum of Rs.2000/-p.m to the respondent towards interim maintenance and also a sum of Rs.2500/- to the respondent towards litigation expenses. The respondent also filed another application in I.A.No.993 of 2010 in the aforesaid O.P, praying to dismiss the H.M.O.P filed by the revision petitioner, in the event of non-payment of the arrears of interim maintenance to the tune of Rs.56,500/-.The said application was also allowed by the Court below on condition that the revision petitioner to pay the arrears of interim maintenance of Rs.56,500/- on or before 7.7.2011, failing which, the main H.M.O.P shall stand automatically dismissed. Aggrieved by the above said orders, the revision petitioner has filed these two revision petitions before this Court for the relief stated supra.

4. The Court below considered the case of the Petitioner as well as the respondent and thereafter, fixed the interim alimony at Rs.2000/-p.m payable to the respondent herein. Upon considering the fact that the Petitioner has to meet out his day-to-day expenses, the trial Court has fixed a meagre sum of Rs.2000/-

p.m.as interim maintenance payable from 11.6.2008, ie., from the date of the Petition and also another sum of Rs.2500/- towards litigation expenses.

5. It is the case of the respondent that the total arrears amount of Rs.56,500/- shall be paid by the revision petitioner to the respondent as directed by the trial Court and another application filed by the respondent in I.A.No.993 of 2010 with a prayer to reject the above H.M.O.P filed by the revision petitioner in the event of failure to pay the arrears of maintenance to the tune of Rs.56,500/- and to comply with the above said order by the revision petitioner in true letter and spirit.

6. The trial Court after considering the case of the Petitioner as well as the respondent, has rightly allowed both the applications and directed the Petitioner to pay a sum of Rs.2000/-p.m. To the respondent from the date of petition and also to pay a sum of Rs.2500/- towards litigation expenses. This Court feels that the said orders passed by the Court below seems to be reasonable one and hence this Court does not warrant any interference in those orders passed by the Court below. As per calculation, the arrears of interim maintenance comes to Rs.56,500/- as on 25.10.2010. By virtue of the subsequent orders, the Petitioner has paid a sum of Rs.25,000/- towards arrears of interim maintenance and the same was deposited before the Court below and in view of the above facts and circumstances, this Court is inclined to pass the following order:

1. The revision petitioner is directed to pay a sum of Rs.2000/-p.m to the respondent towards interim alimony on or before 5th of every succeeding English Calendar month and the revision petitioner is directed to pay the arrears of interim maintenance till date and also a sum of Rs.2500/- towards litigation expenses, as directed by the Court below within a period of 12 weeks from the date of receipt of a copy of this order, failing which, C.R.P(PD)(MD)No.1364 of 2011 shall stand automatically dismissed. In the event of the above said order being complied with by the Petitioner, the Principal Sub-Court, Kumbakonam is directed to dispose of H.M.O.P.No.62 of 2004 within a period of six months thereafter.

2. In view of the order passed in C.R.P(PD)(MD)No.1364 of 2011, C.R.P(PD)(MD)No.1363 of 2011 challenging the order passed in I.A.No.993 of 2010 is allowed, the said order passed by the Court below is restored to file,

subject to compliance of the order passed in C.R.P(PD)(MD)No.1364 of 2011, dated 23.11.2016.

7. With the above observations, the Civil Revision Petitions are allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

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