

S. Loganathan Vs. C. Devi

S. Loganathan Vs. C. Devi

SooperKanoon Citation : sooperkanoon.com/1187851

Court : Chennai

Decided On : Oct-07-2016

Judge : S.M. Subramaniam

Appeal No. : Civil Revision Petition (Pd) No. 383 of 2013 & M.P.No. 1 of 2013

Appellant : S. Loganathan

Respondent : C. Devi

Judgement :

(Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 08.11.2012 passed in I.A.No.1064 of 2011 in H.M.O.P.No.43 of 2011 on the file of the learned Subordinate Judge, Perundurai and to allow the civil revision petition.)

1. This civil revision petition is filed to set aside the order dated 08.11.2012 passed in I.A.No.1064 of 2011 in H.M.O.P.No.43 of 2011 on the file of the learned Subordinate Judge, Perundurai.

2. The revision petitioner/husband filed H.M.O.P.No.43 of 2011 seeking divorce and to declare the marriage solemnised between the revision petitioner and the respondent on 13.09.2007 as null and void. The said H.M.O.P. was filed after four years from the date of marriage. Pending H.M.O.P., the respondent filed an interlocutory application in I.A.No.1064 of 2011 for interim maintenance claiming Rs.5,000/- p.m. from the revision petitioner. The trial Court, considering the facts

of the case and after perusing the materials available on record, directed the revision petitioner to pay a sum of Rs.2000/- p.m. as interim maintenance from the date of filing of the petition. As against the said order, the present civil revision petition has been filed.

3. The learned counsel for the revision petitioner submitted that the respondent/wife is not entitled to maintenance since the allegation is on the ground of adultery. The person, who committed adultery is also impleaded as second respondent in the H.M.O.P. The revision petitioner also produced the documents to show that the respondent committed adultery. Hence, he prayed to set aside the impugned order passed by the trial Court and to allow the civil revision petition.

4. The learned counsel for the respondent vehemently opposed such a ground argued by the learned counsel for the revision petitioner and the arguments advanced by him cannot be acceptable. Since the HMOP is pending and all the documents and their contents are the subject matter of adjudication, the trial Court has only to decide the suit. At this stage, all the averments and the counter averments are subject matter for effective adjudication of the trial Court, which need not be gone into by this Court. Hence, the civil revision petition is liable to be dismissed.

5. Considering the arguments of the learned counsel for both sides, this Court is of the considered view that the maintenance is a basic right and a right to live, which cannot be denied during the pendency of the case. The mere pending of H.M.O.P. will not deprive the wife from getting interim maintenance. Therefore, there is no infirmity or illegality in the order passed by the trial Court and the trial Court rightly granted interim maintenance to the respondent.

6. In the result, the order passed in I.A.No.1064 of 2011 in H.M.O.P.No.43 of 2011 by the learned Subordinate Judge, Perundurai is confirmed and the civil revision petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.