

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 18th DAY OF JANUARY 2011

BEFORE

THE HON'BLE MR. JUSTICE B.S.PATIL

WRIT PETITION NO.30504 OF 2010
C/W WRIT PETITION NO.22889/2010 (GM-FC)

WP NO.30504/2010

BETWEEN :

SRI.HARSHA KUMAR
S/O N.L.MUNTYAPPA
AGED: 30 YEARS
R/A VISHVESHARIAH EXTN.
BEHIND FOREST OFFICE
HOSKOTE, BANGALORE ... PETITIONER

(BY SRI.R.RAJA, ADV. & SRI.R.B.SADASIVAPPA, ADV.)

AND :

SMT.M.ROOPA
W/O HARSHA KUMAR
AGED 30 YEARS
C/O VENKATACHLA
R/A # 208, MAASTAMNA ROAD
SHIVAPURA, MADDUR TALUK
MANDYA DISTRICT ... RESPONDENT

(BY SRI.RANGANATH S.JOIS, ADVOCATE)

This writ petition is filed under Article 226 and 227 of the Constitution of India praying to call for records relating to the impugned order dated 20.4.2020 made in M.C.10/08 on the IA.1 filed by the petitioner,

Ann-C directing payment of maintenance at ₹.4,000/-
p.m. along with arrears and etc.

WP NO.22889/2010

BETWEEN :

SMT.M.ROOPA
W/O HARSHA KUMAR
AGED 30 YEARS
C/O VENKATACHLA
R/A # 208, MAASTAMNA ROAD
SHIVAPURA, MADDUR TALUK
MANDYA DISTRICT ... PETITIONER

(BY SRI.R.RAJA, ADV. & SRI.R.B.SADASIVAPPA, ADV.)

AND :

SRI.M.HARSHA KUMAR
S/O N.L.MUNIYAPPA
AGED: 30 YEARS
R/A BEHIND FOREST OFFICE
VISVESWARAIAH EXTN.
HOSKOTE, BANGALORE DIST. ... RESPONDENT

(BY SRI.RANGANATH S.JOIS, ADVOCATE)

This writ petition is filed under Article 226 and 227 of the Constitution of India praying to issue a writ in the nature of certiorari quashing the impugned order dated 20.4.2010 passed by the I Addl. Sr. Civil Judge, Bangalore Rural District, Bangalore in M.C.10/08 vide Ann-E and etc.

These petitions coming on for preliminary hearing this day, the court made the following :

COMMON ORDER

The order passed by the Prl. Civil Judge (Sr. Dn.), Bangalore Rural District, Bangalore in M.C.No.10/2008 allowing IA No.1 and granting interim maintenance of ₹.4,000/- p.m. from the date of petition till the date of disposal of the case and a sum of ₹.6,000/- towards litigation expenses, is challenged by both the husband and the wife. Petitioner in Writ Petition No.30504/2010 is the husband. Whereas, petitioner in Writ Petition No.22889/2010 is the wife. Both the writ petitions are heard together and are disposed of by this common order.

2. The facts brought on record disclose that the husband is working in the Customer Care Service Centre and is drawing a salary of ₹.10,000/- p.m. Though the wife had contended in her application that her husband owned a house at Hoskote worth ₹.1,00,00,000/- and was getting rent of ₹.3,000/- p.m., no material was produced to substantiate the said fact.



The Court below, having taken note of the fact that the husband has no obligation of maintaining his parents as both of them were well placed, came to the conclusion that keeping in mind the salary drawn by him at ₹.10,000/- p.m., a sum of ₹.4,000/- was required to be granted as interim maintenance for maintaining herself and her minor child apart from a sum of ₹.6,000/- towards litigation expenses.

3. Learned counsel appearing for the husband / petitioner in Writ Petition No.30504/2010 submits that the amount awarded is on the higher side as the amount of maintenance needed for the wife who is staying in a mofusal area, cannot be a sum of ₹.4,000/- taking note of the meager salary that the husband has been drawing.

4. On the other hand, learned counsel appearing for the wife / petitioner in Writ Petition No.22889/2010, strongly contends that the amount awarded is on the



lower side as the wife has the burden of maintaining the child also.

5. Having heard the learned counsel for the parties and on perusal of the materials on record, I find that the Court has proceeded to award maintenance of ₹.4,000/- on the basis that the husband was getting a salary of ₹.10,000/- p.m. The wife has contended that the husband was drawing a salary of ₹.18,000/-, but no material was produced. The husband also has failed to produce the salary certificate to show to the satisfaction of the Court the actual salary drawn by him. In the circumstances, the Trial Court has proceeded to award the interim maintenance at ₹.4,000/- p.m. I find that since the wife is taking care of the minor child who is under her custody, the amount awarded is on the lower side having due regard to the status of the husband and the salary drawn by him. The fact that the husband has not produced the salary certificate also ought to have been kept in mind by the Court below. It has



simply accepted the assertion made by the husband in the statement of objections stating that his salary was ₹.10,000/-. In the circumstances and in the ends of justice, keeping in mind the totality of the circumstances, I find that a sum of ₹.5,000/- is just and proper to be awarded as interim maintenance taking note of the fact that the wife has to maintain her minor child. Hence, the interim maintenance awarded to the wife is enhanced from ₹.4,000/- to ₹.5,000/-. The Court below is directed to dispose of the main matter as expeditiously as possible.

In the result, W.P.No.30504/2010 is dismissed.
Whereas, W.P.No.22889/2010 is partly allowed.

Sd/-
JUDGE

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