

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6344 OF 2012  
(Arising from SLP(C) No.12022 of 2012)

C. Premalatha

..Appellant

versus

A. Baskar

..Respondent

O R D E R

Leave granted.

This appeal is directed against judgment dated 15.12.2011 of the Division Bench of the Madras High Court, whereby the appeal preferred by the appellant against the decree of divorce passed by the Family Court at Salem was dismissed with the direction to the respondent to pay rupees five lakhs towards full and final settlement of her claim for maintenance.

While issuing notice to the respondent on 23.04.2012, this Court passed the following interim order:

"Issue notice to the respondent to show cause as to why he should not be directed to pay interim maintenance to the petitioner during the pendency of the special leave petition, returnable in the third week of July, 2012.

Dasti, in addition, is permitted.

In the meantime, the respondent shall pay a sum of rupees fifteen thousand to the petitioner as interim maintenance. For the month of April, 2012, the amount of maintenance shall be paid by 30th of this month and for all succeeding months the amount shall be paid by 10th of the relevant month."

Shri Prabhakar, learned counsel for the respondent very fairly stated that he is not in a position to support the impugned order and that it would be in the interest of justice that the matter is remitted to the High Court for fresh disposal of the appeal filed by the appellant. Learned counsel also stated that his client has already sent a demand draft of Rs.1,13,500/- to the appellant towards the arrears of maintenance payable up to the month of August, 2012.

Learned counsel for the appellant submitted that the respondent has not paid the amount of maintenance in terms of the interim order passed by this Court.

We appreciate the fair stand taken by Shri Prabhakar. Even otherwise, we are convinced that the judgment under challenge is liable to be set aside because the High Court has not decided on merits the appellant's challenge to the decree of divorce passed by the Family Court. In our view, the High Court should have adverted to the pleadings of the parties and evidence produced by them, considered the arguments of their advocates and then decided, by assigning cogent reasons, whether the decree passed by the Family Court was legally sustainable. Its failure to do so has resulted in manifest injustice to the appellant.

In the result, the appeal is allowed, the impugned judgment is set aside and the matter is remitted to the High Court for fresh disposal of C.M.A. No. 1174 of 2008.

The parties are directed to appear before the High Court in the first week of November, 2012. We request the High Court to make an endeavour to decide the appeal afresh as early as possible.

For facilitating payment of maintenance to the appellant, we direct that:

1. Within two weeks from today, the appellant shall furnish her bank account number to the respondent.
2. If the demand draft sent by the respondent is not received by the appellant within two weeks from today, then she shall inform him about this development. In that event, the respondent shall deposit the arrears of maintenance including the amount payable in terms of the order of this Court in the bank account of the appellant within a maximum period of next three weeks.
3. During the pendency of the appeal before the High Court, the respondent shall continue to pay maintenance to the appellant at the rate mentioned in this Court's order dated 23.04.2012.

.....J.  
[G.S. SINGHVI]

NEW DELHI; .....J.  
SEPTEMBER 05, 2012 [SUDHANSU JYOTI MUKHOPADHAYA]

ITEM NO.24 COURT NO.4 SECTION XII

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12022/2012

(From the judgement and order dated 15/12/2011 in CMA No.1174/2008 of The HIGH COURT OF MADRAS)

C.PREMALATHA Petitioner(s)

VERSUS

A.BASKAR Respondent(s)

(With appln(s) for permission to place addl. documents on record and office report ))

Date: 05/09/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr. G.Sivabalamurugan, Adv.

For Respondent(s) Mr. V. Prabhakar, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(Parveen Kr.Chawla)	(Phoolan Wati Arora)	
Court Master	Court Master	

[signed order is placed on the file]