

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No. 857 OF 2015

ORDER:

The present Revision is filed under Article 227 of the Constitution of India questioning the order dated 04.02.2015 in I.A. No.90 of 2015 in M.O.P. No.50 of 2013 on the file of the II Additional Senior Civil Judge, Nandyal.

The brief averments in the affidavit filed in support of the said I.A. are as under :

The petitioner herein filed an application under Order VIII Rule 1(3) and Section 151 C.P.C., to receive documents i.e., photographs, Fixed Deposit bonds and Recurring Deposit bond which are shown in the petition schedule, as evidence on her behalf. The case of the petitioner herein is that herself and the respondent herein lived happily together till the parents of the petitioner in main O.P. came to California. The petitioner therein performed the ceremony of Tonsure function, Aksharabhyasam, Bogi Pallu of their daughter Nitya. It is stated that three fixed deposit receipts in Andhra Pragathi Grameena Bank and also a Recurring Deposit were opened by her father in the name of her minor daughter, which are relevant to prove her version, hence prays to receive the said documents.

A counter came to be filed by the respondent herein i.e., the petitioner in M.O.P., denying the allegations made in the petition and stated that the petitioner herein should have filed these documents at the earliest and not after the evidence of the petitioner in the M.O.P. is closed. It is said that the petitioner herein has cross-examined the petitioner in M.O.P., and his witnesses at length and as such the question of filing these documents at this stage cannot be entertained. According to him, the same amounts to filling up the lacunas of the case. After hearing both the parties, the II Additional Senior Civil Judge, Nandyal, dismissed the said application. Challenging the same, the present Revision is filed.

Heard the learned counsel appearing for the petitioner/wife and the learned counsel appearing for the respondent/husband.

The material on record would show that the respondent herein filed M.O.P. No.50 of 2013 against the petitioner herein under Section 13(1)(ia) of the Hindu Marriage Act, 1955 on the file of the Principal Senior civil Judge, Nandyal, which was transmitted to the Court of II Additional Senior Civil Judge, Nandyal. In the said case, witnesses

on behalf of the petitioners were examined and the evidence was also closed. Thereafter, the petitioner herein filed I.A. No.90 of 2015 in M.O.P. No.50 of 2013 seeking permission of the Court to receive and mark the documents on her behalf, which are mentioned in the petition schedule. The said application was dismissed. Aggrieved by the same, the present Revision is filed.

The learned counsel for the petitioner argued that as per Section 65-B of the Indian Evidence Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer shall be deemed to be also a document and shall be admissible in any proceedings, without further proof or production of the original.

The learned counsel for the respondent argued that the petitioner herein placed on record some photographs, Fixed Deposit Bonds and Recurring Deposit passbook, but did not place any Compact Disc and photograph or any bill of the photographs. No reasons are forthcoming as to why the said documents were not filed along with the counter. He further argued that the parties have produced all the documents along with counter and the question of allowing them at this stage is not permissible. He further submits that the documents which are sought to be marked are dated 19.12.2014 and 31.07.2014, which have nothing to do with the case on hand as M.O.P. itself was filed in the year 2013.

The learned counsel for the petitioner relied upon the judgment of this Court in **M.R.Anjaneyulu v. R.Subramanyam Achary**. On the other hand, the learned counsel for the respondent placed reliance on judgments of this Court in **C.Rama Mohan Reddy v. Kusetty Seshamma and others** and **Nyayapathi Srinivas Raghavan v. Burra Adinarayana Sastry**

A perusal of the judgments relied upon by both the counsels would show that;

“The fair amount of discretion is vested by Order VIII Rule 1A(3) CPC in the Courts to permit filing the documents. No hard and fast principles can be laid down for the Courts as to how this discretion has to be exercised. While exercising such discretion, the Courts will have to consider relevant aspects such as the conduct of the parties, the nature of the documents that are sought to be filed and whether by permitting filing such documents, the same will help the Court to adjudicate the suit in a more effective manner etc. The Court should also consider the stage at which the documents are sought to be filed.”

As stated earlier, the H.M.O.P. was filed in the year 2013 under Section 13(1)(ia) of Hindu Marriage Act, 1955. The averments in the said application show that the

petitioner and respondent lived at Nandyal and later at California State, U.S.A. It is stated that the respondent who is the petitioner herein is under influence of her mother and senior paternal uncle. The respondent's mother used to interfere in all the family matters of and used to impose restrictions and conditions particularly in respect of financial matters. The respondent's senior paternal uncle insulted the petitioner when he stayed in his house. It is further alleged when the parents of the petitioner visited them at Fremont, California State, USA, the respondent insulted them and made them to return within a week. The respondent also secured employment with the cooperation of the petitioner. The respondent and her mother made the petitioner spend all his money for purchasing house, gold, car etc., by provocation. All the allegations in the petition refers to the manner in which the wife used to treat her husband and also her in-laws. Out of their wedlock they were blessed with a baby about 1 ½ years. Thereafter the petitioner/respondent came to India and lived at Nandyal where a panchayat was held. But there was no change in her attitude. So the petitioner returned to U.S.A. and the respondent also returned to U.S.A. independently. Basing on these allegations, the M.O.P. filed by the petitioner/husband seeking divorce.

A counter was filed in the O.P. enclosing all the messages exchanged between the parties till 20.11.2013. In the present application the petitioner seeks to mark three F.D. bonds dated 19.12.2014 and one R.C. maturity bond dated 31.07.2014. In the affidavit filed in support of the said petition, it was also mentioned that the petitioner wants to mark certain documents to show that herself and the respondent lived happily together till the parents of the petitioner visited California.

As seen from the record, these photographs are said to have been taken during their stay in California and both of them were living together. The main contention as stated in the O.P. is that the parents of the petitioner/husband were not being treated well by the respondent/wife. On the other hand, the learned counsel for the petitioner herein submits that the photographs if produced on record would demolish the said version.

Having regard to the facts and circumstances of the case, this Court is of the view that these photographs may be necessary for a just decision of the case. Insofar as the F.Ds. and R.D. are concerned the same may not be necessary for adjudication of the case as they are subsequent transactions i.e., after filing the Main O.P.

Accordingly, the Civil Revision Petition is partly allowed and the petitioner/wife shall be permitted to produce the photographs subject to their relevancy and admissibility, in accordance with law.

There shall be no order as to costs.

Miscellaneous petitions pending in this Revision, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:24.03.2015

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