

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-

CIVIL REVISION PETITION No.377 of 2014

ORDER:

Heard the learned counsel for petitioners and the learned counsel for respondents.

2. The petitioners herein are defendants in O.S.No.110 of 2011 on the file of the Court of the IV Additional District Judge, Kadapa (for short, trial Court). The respondents herein filed the said suit for recovery of an amount of Rs.29,60,000/- along with interest @ 18% per annum accrued thereon, which was received by the defendants (petitioners herein) as consideration to marry the second plaintiff by the first defendant at Rail Shubham Kalyana Mandapam, Kadapa and for other reliefs. For the sake of convenience, the parties shall be referred to as they are arrayed in the trial Court.

3. After filing the written statement, the present application, I.A.No.251 of 2012, was filed by the defendants stating that payment of dowry is illegal and violative of the provisions of the Dowry Prohibition Act, 1961, and hence, the suit is not maintainable under law. They sought to decide the issue of maintainability as a preliminary issue. The plaintiffs filed a counter-affidavit stating that the Dowry Prohibition Act itself provides for transfer of dowry amount for the woman within stipulated time for the benefit of such woman or her heirs. It was also stated that there was no bar for filing the suit for recovery of dowry amount when the defendants failed to transfer the same to the beneficiary. It was also stated that the second defendant filed O.S.No.139 of 2011 on the file of the same Court against the plaintiffs for recovery of Rs.24,20,000/- on the ground that they spent nearly Rs.20,00,000/- for marriage expenses.

4. Taking into those facts into consideration, the trial Court, by its order dated 13.11.2013, passed the following order.

“6. **Point:** Having heard both parties. I have gone through the record. The petition filed by the petitioners/defendants to decide the issue for maintainability of O.S.No.110 of 2011 to that effect a preliminary issue has to be settled. As the maintainability of the suit in O.S.No.110 of 2011 has to be decided after full dress of trial. Anyhow a preliminary issue has to be settled in O.S.No.110 of 2011. For settlement of such issue will be bound on the suit. Therefore, the petition is allowed. A preliminary issue is settled in the main issues of the suit. Accordingly, petition is allowed. No costs.”

Challenging the said order, the defendants filed the present Civil Revision Petition.

5. When the trial Court allowed the petition filed by the defendants, it is not known how they came up with the present Civil Revision Petition. The learned counsel for the petitioners/defendants submits that the issue which is sought to be framed should be settled before other issues.

6. In view of the rival claims made by the parties, it is necessary for the trial Court to decide the issue of maintainability along with other issues and I do not see any ground to interfere with the order of the trial Court. Accordingly, the Civil Revision Petition is dismissed. However, in view of the lapse of four years time after filing of the written statement, the trial Court is directed to dispose of the suit, as expeditiously as possible, but not later than 18 months from the date of receipt of a copy of this order. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 30.11.2015

Note: Issue CC in one week.

B/o. TJMR

