

HON'BLE SRI JUSTICE M.S.K. JAISWAL

CRIMINAL REVISION CASE No.799 OF 2013

ORDER:

This Criminal Revision Case is filed under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') challenging the order dated 14.03.2013, passed in Criminal M.P. No.3486 of 2012 in D.V.C. No.2 of 2009, by the learned III Additional Judicial Magistrate of First Class, Tirupati,.

2. The facts necessary for consideration, in brief, are as follows: 'The first respondent-A.Krishna Veni, who is claiming herself to be the wife of the petitioner-R.Adilingam, initiated proceedings under the Domestic Violence Act. The Court of II Additional Judicial Magistrate of First Class, Tirupati, where the D.V.C was initiated, has passed the order granting maintenance and also the residential order. The petitioner was restrained from renouncing his rights in the shared household except with the leave of the Magistrate. The petitioner has filed Criminal M.P. No.3486 of 2012 seeking permission of the Court to alienate the house bearing No.13-6-615H/17/B in order to satisfy the order of the Magistrate awarding maintenance to the first respondent. The first respondent contended that the house i.e., proposed to be sold by the petitioner is covered by the order passed by the Court of the learned Junior Civil Judge and the petitioner has been restrained from alienating the same. The first respondent and her two sons are staying in the said house. The petitioner is having another house bearing No.20-5-223 and if so advised, he can dispose of the said house for paying the maintenance. The first respondent contended that the house, in which she is living along with her two sons, if sold, she will be shelter less and that will be contrary to the order of the Court providing protection to her. The relationship is in dispute. The petitioner-R.Adilingam contends that the first respondent is not his wife, but she was only a tenant living in the house. According to the petitioner, he was married to one Savithri in the year 1989 and through her he begot a daughter Durga, who is now studying B.Tech.

3. The first respondent contends that she married the petitioner on 10.12.1995 and she blessed with two sons, who were born on 02.05.1999 and 15.01.2001. The question as to whether the first respondent is the wife or not does not fall for consideration at present. The Court of Magistrate has directed the petitioner not to renounce his rights in the shared household property bearing No.13-6-615H/17/B, however, contrary to that order, the petitioner is seeking leave of the Court to alienate the said house. If the said house is alienated, as rightly contended the first respondent herself and her two children would be left without any shelter thereby defeating the very object of the provisions of the Domestic Violence Act. The learned III Additional Judicial Magistrate of First Class, Tirupati, in his order dated 14.03.2013 in Criminal M.P. No.3486 of 2012, has considered all the aspects and for valid reasons, rejected the request of the petitioner to alienate the house. Upon perusal of the material available on record, I see no ground to interfere with the said finding, and the same is hereby confirmed.

4. In the result, the Criminal Revision Case is dismissed.

Miscellaneous petitions pending, if any, in the Criminal Revision Case shall stand closed.

M.S.K.JAISWAL, J

Date: 10.06.2015

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HON'BLE SRI JUSTICE M.S.K. JAISWAL

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