

**HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO**

CIVIL REVISION PETITION No. 393 of 2015

DATED 3<sup>rd</sup> December, 2015

BETWEEN

N.Srinivas

...Petitioner

And

N.Eswari

...Respondent.

**HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO**

CIVIL REVISION PETITION No. 393 of 2015

**ORDER:**

The petitioner herein filed O.P.No.768 of 2010 on the file of the learned Judge, Family Court, at L.B.Nagar, Ranga Reddy District seeking nullity of marriage with the respondent, which was performed on 15.11.2007 at Bandaru Gardens, new VT Colony, Nalgonda District. The marriage between the petitioner and respondent was consummated. In the said OP, cross examination of P.W.1 is going on. While the matter stood thus, the respondent

herein filed I.A.No.2308 of 2012 under Section 24 of the Hindu Marriage Act seeking a sum of Rs.1,20,000/- per month towards her maintenance pendente lite.

The said application was filed alleging that at the time of marriage the petitioner-husband was working as a software engineer in IBM at USA and drawing a salary of Rs.3.00 lakhs per month and that as on the date of filing the petition, the petitioner-husband is drawing the same salary working with IBM. The respondent-wife further stated in the affidavit that after she was deserted by her husband, she is residing with her parents at Ongole even though she was qualified in MD (Ayurveda) and that she is an un-employed. It was further stated that her father is working as a Development Officer and he is going to retire in a few months.

The petitioner-husband contested the said application by filing a counter affidavit, wherein it was stated that he is in deep shock on coming to know that the respondent-wife is suffering from HIV positive. He further stated that he is not doing any job and unable to concentrate on any work and is totally depending on his aged parents. He further stated that the respondent-wife is a highly qualified doctor and she is practicing at Ongole and is earning good amount through her practice and also Rs.50,000/- per month by running a medical shop and that she is also getting other income on fixed deposits.

The learned Judge, Family Court, Ranga Reddy District passed an order for payment of Rs.40,000/- to the respondent-wife towards her monthly maintenance pendente lite from the date of petition till disposal of OP.No.768 of 2010 by holding as follows:

“ Now coming to the means of the respondent, the petitioner in her petition affidavit stated that respondent at the time of the marriage was working in IBM company in USA as a Software Engineer and draws salary of Rs.3 lakhs per month. Respondent in his counter stated that he is in private service and he did not deny that he is a software engineer working in IBM company, USA. In view of the same, considering the

present day of cost of living, awarding a sum of Rs.40,000/- to the petitioner towards her maintenance pendente lite per month in my considered opinion would meet the ends of justice.

The above order of the learned Judge, Family Court does not show any finding with regard to the employment of both the parties and their earnings. Merely on the basis of allegations and counter allegations, an amount of Rs.40,000/- per month was awarded. Since this Court is not satisfied with the disposal of the application filed by the respondent-wife, the order under revision is set aside and the matter is remanded to the learned Judge, Family Court at Malkajigiri, Ranga Reddy District to whom the present case is transferred for disposal of I.A.No.2308 of 2012 filed by the respondent-wife afresh, in accordance with law, within a period of three months from the date of receipt of a copy of this order. In the meanwhile the petitioner-husband shall deposit an amount of Rs.1,00,000/- tentatively on or before 31.12.2015. Withdrawal of the said amount by the respondent-wife is subject to the orders to be passed by the learned Judge, Family Court, Ranga Reddy District.

The Civil Revision Petition is allowed to the extent indicated above. Miscellaneous petitions pending consideration if any in the Civil Revision Petition shall stand closed in consequence. No order as to costs.

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**JUSTICE A. RAMALINGESWARA RAO**

DATED 3<sup>rd</sup> December, 2015.

Msnr<sub>x</sub>