THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL MISCELLANEOUS APPEAL No.533 of 2005

JUDGMENT: (*Per Hon'ble Sri Justice R. Subhash Reddy*)

This appeal, under Section 28 of the Hindu Marriage Act, 1955, is filed aggrieved by the order and decree, dated 09.08.2004, in O.P.No.31 of 1996 on the file of the learned Senior Civil Judge, Piler.

The appellant, who is the husband of the respondent herein, has originally filed the above-mentioned O.P against the respondent, seeking decree of divorce. By order, dated 27.08.2002, the Court below allowed the O.P, granting decree of divorce and fixing permanent alimony of Rs.1,50,000/- payable to the respondent. Challenging the order with regard to grant of permanent alimony, the appellant carried the matter in appeal before this Court and this Court, vide judgment dated 02.05.2003, disposed of the appeal remanding the matter for fresh consideration with regard to quantum of permanent alimony. Pursuant thereto, after recording further evidence, the Court below passed the impugned order dated 09.08.2004, confirming the amount of Rs.1,50,000/-, towards permanent alimony payable to the respondent, as fixed earlier. Questioning the same, this appeal is filed.

Heard Sri P.V.Vidyasagar, learned counsel for the appellant, and Sri K.G.Krishna Murthy, learned counsel for the respondent.

In this appeal, the only contention advanced by the learned counsel for the appellant is that without appreciating the evidence on record with regard to income particulars of the appellant, the learned Senior Civil Judge has arbitrarily fixed an amount of Rs.1,50,000/- towards permanent alimony. During the course of hearing, it is submitted that the appellant is having agricultural income, as his family possesses cultivable land of more than Ac.8.00.

It is true that while fixing the permanent alimony, the income of the husband is to be taken into consideration. At the same time, in the counter affidavit filed in the claim petition, it is stated that as the respondent has lost her father prior to her marriage, her junior paternal uncle has performed her marriage with the appellant by giving cash of Rs.70,000/- and gold ornaments worth Rs.80,000/-. Further, before the Court below, it was the contention of learned counsel for the respondent-wife that the cost of living has gone up and now-a-days minimum expenditure of Rs.1,500/- to Rs.2,000/- per month is required for survival of an individual. The petitioner is an able-bodied person capable of doing agriculture in the cultivable land of his family.

Though there is no detailed discussion with regard to the income, in view of the admitted fact that the family of the appellant has got cultivable land of more than Ac.8.00 and in view of the averments made in the counter affidavit filed in the claim petition, we are of the view that fixation of Rs.1,50,000/- towards permanent alimony is just and reasonable and there are no merits to interfere with the impugned order.

Accordingly, the appeal is dismissed. However, as much as it is stated that an amount of Rs.1,00,000/- is already deposited pursuant to the interim order dated 19.07.2005 passed by this Court, we permit the appellant to pay the balance amount within a period of eight weeks from today. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending shall stand closed.

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JUSTICE R.SUBHASH REDDY

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Dr. JUSTICE B.SIVA SANKARA RAO

18.02.2015
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