

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.3554 of 2015

ORDER:

The respondent in F.C.O.P. No.1465/2012 on the file of the Court of the learned Additional Family Judge, Visakhapatnam, is the petitioner herein. The said O.P. was filed by the respondents herein seeking maintenance to both of them on the ground that the petitioner herein treated respondent No.1 cruelly and deserted her. In the said O.P., the respondents herein filed I.A. No.69/2015 seeking interim maintenance @ Rs.6,000/- per month to the respondents and Rs.4,000/- towards travel and legal expenses from the petitioner. The said application of the respondents was allowed, by order dated 02.07.2015, granting interim maintenance @ Rs.6000/- per month to respondent No.1 and Rs.4,000/- per month to respondent No.2, beyond the claim made by the petitioners in I.A. No.69/2015. Challenging the same, the present Civil Revision Petition was filed.

In the affidavit filed in support of the application in I.A.No.69/2015, it is clearly mentioned that the petitioner herein is doing business and earning more than Rs.50,000/- per month from mobile shop and Rs.10,000/- per month towards rents, but he is not providing any maintenance to the petitioners therein, and the petitioners therein filed the application for an amount of Rs.10,000/- towards maintenance and for travel and legal expenses.

The petitioner herein filed a counter stating that respondent No.1 herein is working as DTP operator and earning Rs.12,000/- per month.

On the basis of the above averments while disbelieving the version of the petitioner-husband, with regard to the earnings of respondent No.1 herein, the learned Judge, Additional Family Court, Visakhapatnam, granted interim maintenance @ Rs.6,000/- to

petitioner No.1 therein and Rs.4,000/- to petitioner No.2 therein from the month of April 2015, beyond the prayer made in the application. The order passed by the said learned Judge is clearly irregular. No finding is recorded with regard to the income of petitioner also.

In the above circumstances, this Court is constrained to set aside the order dated 02.07.2015 passed by the learned Judge, Additional Family Court, Visakhapatnam, in I.A.No.69/2015 in F.C.O.P. No.1465/2012, and the matter is remanded to him for consideration of the case afresh in accordance with law and pass appropriate orders.

At this stage, learned counsel for the respondents submits that by mistake the application was filed for Rs.6,000/- towards maintenance and Rs.4,000/- towards legal expenses, and the original claim is for Rs.6,000/- to respondent No.1 herein and Rs.4,000/- to respondent No.2 herein. If that is so, the aforesaid learned Judge, shall give an opportunity to the respondents herein for making amendment to the application and after giving due opportunity to both the parties, shall decide the case for interim maintenance.

Accordingly, this Civil Revision Petition is allowed. No order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAMALINGESWARA RAO, J

18.12.2015
MVA