

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

CIVIL MISCELLANEOUS APPEAL No.2063 of 2004

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JUDGMENT: (Per Justice R. Subhash Reddy)

This appeal is filed under Section 19 of the Family Courts Act, 1984 by the petitioner in O.P.No.64 of 2002 on the file of the Family Court, Kurnool, aggrieved by the order and decree dated 18.12.2003.

The appellant herein has filed the aforesaid O.P., under Section 13(1A)(ii) of the Hindu Marriage Act 1955 and Section 7(1)(a) of the Family Courts Act, 1984, seeking decree of divorce and for dissolution of marriage with the respondent, on the ground that in spite of orders for restitution of conjugal rights in O.P.No.3 of 1996 dated 19.03.1996, respondent has not chosen to join him; thus there is desertion on the part of the respondent.

The Family Court, by the impugned order and decree, while allowing the O.P., has awarded a sum of Rs.1,000/- per month to the respondent herein, towards permanent alimony payable by the appellant herein, from the date of the filing of O.P., i.e. from 22.08.2002.

Aggrieved by the order of the Family Court, awarding permanent alimony at the rate of Rs.1,000/- per month to the respondent, this appeal is filed.

Mainly it is the case of the appellant herein that respondent was already awarded maintenance of

Rs.300/- per month in the petition filed by her; as such, she is not entitled for award of any permanent alimony.

Merely because respondent was awarded maintenance prior to passing of the impugned order and decree, the same will not disentitle the respondent for award of permanent alimony, which is granted only at Rs.1,000/- per month. Further, it is not in dispute that appellant herein is a Government employee working in Government Printing Press in Kurnool District. In that view of the matter, we do not find any illegality in the impugned order.

The appeal is devoid of merits and is accordingly dismissed. No order as to costs. However, if any arrears are due and payable by the appellant herein, to the respondent, the appellant shall pay the same within a period of four months from today.

As a sequel, miscellaneous petitions if any pending in the appeal stand closed.

R. SUBHASH REDDY, J

Dr. B. SIVA SANKARA RAO, J

January 21, 2015

MRR