

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1058 of 2015

ORDER:

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1. This Criminal Revision case is filed by the petitioner against the order dated 30.8.2013 passed in M.C.No.111 of 2013 by the Additional Metropolitan Sessions Judge for the Trial of JHBBC-cum-Additional Family Court-cum-XXIII Additional Chief Judge, Hyderabad.

2. The 1st respondent filed the above M.C. on her behalf and on behalf of her son-2nd respondent against the petitioner claiming maintenance of Rs.10,000/- p.m., to her and Rs.5,000/- per month to her son. In spite of service of notice on the petitioner, he did not appear and hence, the trial Court set him ex parte and allowed the M.C. granting maintenance at the rate of Rs.3,000/- p.m., to the 1st respondent and Rs.2,000/- per month to the 2nd respondent from the date of the order dated 30.8.2013. Aggrieved by the same, the petitioner filed this revision.

3. At the time of admission, while granting interim stay in the above M.C., this Court directed the petitioner to deposit 50% of the arrears of maintenance to respondents 1 and 2, if any, within a period of six weeks and continuing to pay the monthly maintenance at the rate of Rs.1,500/- to the 1st respondent and Rs.1,000/- to the 2nd respondent on or before 10th of every succeeding month. Hence, the 1st respondent filed a petition before this Court seeking to vacate the interim stay granted by this Court. Even though the matter has been at the interlocutory stage, the main case is being disposed of with the consent of both the parties.

4. Admittedly, the order in the above M.C. is an ex parte order. The petitioner without filing the application to set aside the ex parte order, approached this Court and obtained interim suspension.

5. Learned Counsel for the petitioner submitted that the order under revision was passed in the year 2013. As there was inordinate delay, the petitioner approached this Court instead of filing application to set aside the ex parte order.

6. Considering the facts and circumstances of the case and in view of the fact that

the order under revision is an ex parte order, without expressing any opinion on the merits of the case, the revision case is disposed of with the following directions:

1. The petitioner is directed to file applications to set aside the ex parte orders dated 3.6.2013 & 30.8.2013 along with the applications to condone the delay. On such applications being filed, the trial Court is directed to condone the delay and set aside the ex parte orders and restore the M.C., on condition of payment of Rs.5,000/- (Rupees Five Thousand only) to respondents 1 and 2 towards costs.
2. On restoration of M.C., the petitioner and the respondents are directed to co-operate with the trial Court.
3. The trial Court is directed to dispose of the M.C., within a period of six months from the date of receipt of a copy of this order.
4. The petitioner is further directed to comply with the interim order dated 11.6.2015 till disposal of the M.C. by the trial Court.
5. The respondents 1 and 2 are at liberty to move an application for recovery of arrears of maintenance, if any.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 1.10.2015

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HONOURABLE SRI JUSTICE RAJA ELANGO

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