

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

FRIDAY, THE THIRD DAY OF JULY
TWO THOUSAND AND FIFTEEN

PRESENT

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

C.R.P. No.2247 of 2015

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Between:

Puli Sreekanth

... Petitioner

And

Sandhya @ Madhuri

... Respondent

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

C.R.P. No.2247 of 2015

ORDER:

This revision petition has been filed questioning the order dated 16.03.2015 made in I.A. No.418 of 2012 in O.P. No.749 of 2011 by the Family Court-cum-IV Additional District and Sessions Judge, Vijayawada.

The revision petitioner and the respondent herein are the husband and wife, respectively. O.P. No.749 of 2011 was filed by the husband for dissolution of marriage and an *ex parte* decree was passed on 13.02.2012 dissolving the marriage. Wife filed I.A. No.418 of 2012 in the said O.P. under Order IX Rule 13 and Section 151 CPC seeking to set aside the *ex parte* decree dated 13.02.2012. It is asserted by wife, before the Court below, that she was not served with any notice with respect to the said O.P., and she came to know about passing of the decree when her husband revealed the said fact to one of her relatives namely Jampana Madhu and thereafter, she enquired about filing of the said O.P. and thereafter, she came to know about the *ex parte* decree.

Per contra, husband asserted, before the Court below, that wife resisted to receive the notice in the said O.P. It is also asserted that wife filed a criminal complaint against him at Jeedimetla Police and it was registered as Crime No.1041 of 2011 wherein he stated to have disclosed about filing of the said O.P. and its proceedings. Further, he stated that he married one Morala Soujanya on 14.02.2013.

After considering the submissions made on either side, the Court below allowed the said I.A. Aggrieved by the same, husband filed the present

revision petition.

The learned counsel for the revision petitioner submitted that the marriage took place between the petitioner and the respondent on 01.09.2010. Thereafter, some disputes arose between them and were unable to adjust with each other. However, on the ground of cruelty, husband filed the O.P. No.749 of 2011 and the Court below passed an *ex parte* decree. Seeking to set aside the same, wife filed I.A. No.418 of 2012 and the same was allowed by the Court below vide impugned order. He submitted that though there were no justifiable grounds to set aside the decree passed in the said O.P., the Court below erroneously allowed the said I.A. Hence, the impugned order is liable to be set aside.

From a perusal of the impugned order, it is clear that within one month of passing of the *ex parte* decree, wife filed set aside application and that was allowed by the Court below. The contention of husband is that he married one Soujanya, only after obtaining *ex parte* decree thus, the set aside application is not maintainable. This version of husband cannot be acceded as he married again without waiting lapse of appeal period. Specific contention of wife is that she was not served with any notice. After considering the submissions on either side, the Court below allowed the set aside application.

In that view of the matter, I do not see any reason to interfere with the impugned order and therefore, the revision petition is liable to be dismissed.

Accordingly, the revision petition is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, stands closed.

JUSTICE G.CHANDRAIAH

Date: 03.07.2015

LSK