

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.3606 of 2015

ORDER:

By the order under revision, the Court below rejected registration of the joint petition filed, under Section 13-B(1) of the Hindu Marriage Act, 1955, for dissolution of the marriage of the petitioners by mutual consent.

The objection taken by the Court below is that Section 13-B(1) of the Hindu Marriage Act mandates the Court to ascertain the mutual consent of the parties for filing the petition; the object of Section 13-B is to ascertain from both parties whether they had filed the petition with free consent or otherwise; Section 13-B mandates parties to appear before the Court; while registering the petition, the Court is required to examine both parties; and G.P.A. holders cannot substitute the presence of the petitioners.

Sri Velivela Srinivasa Rao, Learned Counsel for the petitioners, would submit that both the petitioners had submitted their affidavits, and the special power of attorney authorizing others to file the petition; the petitioners had merely sought registration of the petition; they would appear in person at the time of disposal of the main O.P; and, in the light of the Division Bench Judgments in **Bikani Savitha v. All Concerned**^[1]; **Mrs.Padmakiran Rao v. Mr.B.Venkataramana Rao**^[2] and **S.B.Tirumal Raj v. Smt.Lakshmi Prasanna**^[3], the Court below had erred in rejecting registration of the petition, for divorce by mutual consent, even at the threshold.

The aforesaid judgments do appear to support the contention of the petitioners herein. None of these judgments were noticed by the Court below. While exercising jurisdiction under Article 227 of the Constitution of India, this Court would not substitute its views for that of the Court below. As none of the aforesaid judgments have been

noticed by the Court below, I consider it appropriate to set aside the order under revision; and direct the Court below to examine the application afresh in the light of the aforesaid judgments at the earliest, preferably, within two months from the date of receipt of a copy of this order.

The Civil Revision Petition is, accordingly, disposed of. The Miscellaneous Petitions, if any pending, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, J)

Date:04.09.2015.
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- [\[1\]](#) 2015 (3) ALT 140 (DB)
[\[2\]](#) 1995 (3) ALT 154 (DB)
[\[3\]](#) 2012 (2) ALT (CrI.) 82 (AP)