

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.1092 of 2016

ORDER :

The revision petitioner is the husband of 1st respondent and father of respondent Nos.2 and 3, minor school going daughters. The relationship is not in dispute. The revision petitioner herein filed a petition for dissolution of marriage under Section 13 of the Hindu Marriage Act, 1955, (for short, 'the Act') against the 1st respondent on the grounds of cruelty and desertion. During pendency of the divorce petition, wife and her two children, who are in her custody and care, sought interim maintenance under Section 24 and 26 of the Act at 12,000/- per month to the wife and Rs.7,725/- and Rs.7,550/- per month respectively to the two children and the lower Court i.e., Additional Family Court, City Civil Court, Hyderabad, vide impugned order dated 30.12.2015, allowed the same as prayed for. It is impugning the same, present revision is maintained.

2. Heard both sides at length.
3. The revision petitioner filed the salary certificates for the months of February and March, 2016. As per February, 2016 pay slip, out of the gross salary of Rs.49,525/-, after deduction of Rs.8,637/-, which includes TDS of Rs.4,000/-, P.F. Contribution of Rs.4,437/- and professional tax Rs.200/-, his net shown is Rs.40,888/-. As per March, 2016 pay slip, out of the said gross salary, after deduction of TDS is Rs.7,001/-, P.F. contribution of Rs.4,437/- and professional tax of Rs.200/-, the net salary was shown as Rs.37,887/-. Even taken his parents are having another

employee son ie., the brother of petitioner, the obligation of the petitioner to take care of the parents, much less to provide any medical aid of necessity, cannot abdicate him as he claims.

4. The revision petitioner further claims that he incurred a personal loan from the Bank and the bank accounts reflects the same by deducting Rs.17,209/- per month, but that cannot be given credence for lack of particulars as to what is the loan, for what purpose taken and spent and what are the installments fixed. It is not even his case that he has paid the amount or spent for the wife or children.

5. Even the gross salary of the petitioner is taken at Rs.40,000/- per month, after deducting the compulsory deductions i.e., professional tax, income tax, TDS and P.F.Contributions, etc., ultimately to him and to the benefit of family, half of the amount is just, thereby to reduce from what the lower Court awarded of Rs.7,725/- and Rs.7,550/- to two children to Rs.7,000/- each and to the wife of Rs.12,000/- to Rs.6,000/-.

6. Accordingly, the revision is allowed in part. The order dated 30.12.2015 in I.A.No.400 of 2015 on the file of Additional Family Court, City Civil Court, Hyderabad, is modified. The modified order comes into force only from the month of September 2016 and not for the earlier months. Further, if the revision petitioner paid the interim maintenance amount of September, 2016, if any, the same will be adjusted and shall not be claimed back. Needless to mention at this context from the endeavour of the wife expressed to join, though he is not willing, the Family Court is duty bound to make any effort for

reconciliation by calling both parties at an early stage as a further attempt if at all by virtue of this order.

7. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Dr. B. SIVA SANKARA RAO, J

30th September 2016.

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