

THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

A.S.No.2921 of 1992 and A.S.No.87 of 1993

COMMON JUDGMENT:

Both the plaintiff and defendants in O.S.No.112 of 1987 have challenged the judgment dated 20.04.1992 passed by the Subordinate Judge, Ramachandrapuram whereby the trial Court granted preliminary decree for 1/4th share in sub-items 1 to 3 of Item No.I and a sum of Rs.1,000/- towards value of Item No.II of plaint B-schedule properties while dismissing the rest of the claim of the plaintiff in plaint A and C schedule properties.

Aggrieved, plaintiff filed A.S.No.2921 of 1992 and defendants filed A.S.No.87 of 1993. Since both the appeals arise out of same judgment they are disposed of by this common judgment.

2) The factual matrix of the case is thus:

a) Plaintiff's case is that she was the daughter-in-law of defendants 1 and 2 and they were residents of Paningipalli village. The marriage between herself and defendants' son viz. Ramakrishna took place at Annavaram Temple on 13.03.1986 and it was consummated. At the time of marriage, her parents presented C-schedule movable properties as *sare samans* and she was sent to her in-laws' in the last week of March, 1986. From that day onwards the mother-in-law began to tease her even for petty issues and finally she

was sent back to her parents' house. Her father tried to settle the matter but failed in his attempt.

b) It was her further case that in June, 1987 her husband fell from the bullock-cart and injured and he was taken to Rajahmundry for treatment, but the said fact was not informed by defendants to her or her parents. Her husband died on 01.07.1987 and his body was brought to Paningipalli on 02.07.1987 and cremated, but the said fact was also not intimated to her. She claims that her husband died under suspicious circumstances and body was cremated immediately without any intimation to her.

c) The further case of the plaintiff was that plaintiff A-schedule properties are the absolute properties of her late husband—Ramakrishna in which she got half share and plaintiff B-schedule properties are joint family properties and she is entitled 1/4th share therein. Accordingly, she issued Ex.A5—legal notice on 26.07.1987 demanding partition for which the defendants issued Ex.A6—reply notice on 09.08.1987 with false and frivolous allegations. She denied the allegation in the notice that her late husband—Ramakrishna executed Ex.B2—Will dated 27.06.1987. She claimed the Will was a rank forgery.

Hence the suit.

d) D2 filed written statement and adopted by D1. While denying plaintiff averments, it is pleaded that consummation of the marriage took

place on 15.03.1986 in the house of plaintiff's parents at Paningipalli and their son stayed there for three days and later the plaintiff was brought to their house. It is stated that plaintiff's parents have only two daughters and the elder sister of the plaintiff was married and she has been living with her husband at Rajahmundry. Therefore, the plaintiff started nagging her husband to go as an illatam son-in-law but he did not accede to the said request as he was the only son to his parents. Since then, the plaintiff developed hostile attitude and apathy towards her husband and began to neglect him but he never changed his mind. Therefore, the plaintiff left the defendants' house. Subsequently when her husband came to plaintiff's parents house, neither the plaintiff nor her parents gave proper treatment. The plaintiff's husband with a fond hope that she would change her mind, used to visit her parents' house but her conduct remained in tact. Ultimately in December, 1986, the deceased disclosed the plaintiff's conduct to his brother-in-law—Anaparthi Venkata Pattabhiramaiah, who appraised plaintiff's parents and advised them to admonish the plaintiff and correct her behaviour and send her to in-laws' but there was no response from them. Thereafter, D1 and his elder brother—Surya Rao made several attempts to convince the plaintiff but their attempts proved futile. Since January, 1987 there was no conjugal relation between the plaintiff and her husband.

e) D2 further stated that in June, 1987 when his son was tightening the rope to palmyrah leaves staked on a Cart, the rope snapped and he

