

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2822 of 2016

ORDER:

This Civil Revision Petition under Article 227 of the Constitution of India is filed challenging the Order dt.05.2.2016 in I.A.No.551 of 2015 in O.P.No. 82 of 2014 passed by Senior Civil Judge, Sangareddy, whereby the Court granted Rs.5000/- to the petitioner/wife towards her maintenance and legal expenses from the date of petition while directing the respondent therein/husband to deposit the arrears of maintenance within two months during pendency of the petition filed for dissolution of marriage by the respondent before the trial Court.

2. The respondent herein/wife filed a petition under Section 24 of Hindu Marriage Act, 1955, during pendency of the petition filed by the petitioner/husband for dissolution of marriage, for grant of Rs.15,000/- as maintenance alleging that she had no independent source of income sufficient to meet her needs and whereas the revision petitioner is earning sufficiently.

3. Respondent/revision petitioner filed Counter denying material allegations, admitted filing of petition for dissolution of marriage while contending that petitioner/respondent herein is carrying on business of selling vegetables, and whereas the revision petitioner/respondent before trial Court is receiving

Rs.1500/- per month as rent from the premises, Rs.12,344/- as salary. The said income of the revision petitioner is not sufficient to meet educational expenses of his children and maintenance of parents. Therefore, the petitioner before the trial Court/ respondent herein, is not entitled to claim any maintenance and legal expenses and prayed for dismissal of the petition.

4. The trial, after considering the income of the revision petitioner/husband, awarded Rs.5000/- in favour of petitioner/wife as maintenance and legal expenses.

5. Sri Ali Farooq, learned counsel for revision petitioner while reiterating the contentions urged before the trial Court, drawn the attention of this Court to the deposition of Pw.1 in G.W.O.P.No.484 of 2014, wherein she made an admission that she studied intermediate having source of income, but it was not produced before the trial Court for consideration in the said petition. But, a copy of the deposition cannot be looked into at this stage unless the same is filed as additional evidence, following the procedure contemplated under the Code of Civil Procedure. Therefore, the deposition of PW.1 needs no further consideration by this Court in view of the limited jurisdiction of this Court under Article 227 of the Constitution of India.

6. Though Notice was served on respondents, none put up appearance on behalf of respondents.

7. It is an undisputed fact that the revision petitioner/respondent before the trial Court is a private employee and earning meager amount as salary of Rs.12,344/- per month besides receiving Rs.1500/- per month towards rent letting out a portion of a house and apart from that, his two children are with revision petitioner/respondent before the trial Court and with his income only, he has to maintain both children and his parents, who are ailing at old age. If the revision petitioner is compelled to pay Rs.5000/- as maintenance and legal charges, there will be nothing to meet his necessities, mostly, to meet educational expenses of his two children and maintenance of the revision petitioner himself, children and his parents. Therefore, taking into consideration of the occupation of the revision petitioner as mentioned in cause title of the petition in I.A.No.551 of 2015 as "business", the amount awarded by the trial Court is reduced to Rs.4000/- per month as maintenance and legal expenses.

8. With the above modification, this Civil Revision Petition is allowed. No costs.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

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M. SATYANARAYANA MURTHY, J

Date: 28-09-2016.

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CRP No.2822 of 2016

Dt. 28-09-2016

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