

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.4175 of 2015

ORDER:

This civil revision petition under Article 227 of the Constitution of India by the petitioner/husband is directed against the orders dated 29.04.2015 of the learned Senior Civil Judge at Sompeta passed in IA.No.10 of 2015 in MOP.No.8 of 2014 said to have been filed by the husband for dissolution of marriage.

2. I have heard the submissions of the learned counsel for the petitioner/husband and the learned counsel for the respondent/wife. I have perused the material record.

3. According to the submissions made, after the pleadings are complete, the petitioner filed an application before the Court below under Order VII Rule 14 read with Section 151 of the Code to receive on file the documents viz., *certified copy of the FIR and report dated 09.03.2014 given by the respondent against the petitioner along with the true translation of the report in English, charge sheet dated 17.10.2014; Photo copy of the Adhar Card of Nemalipuri Badal Chowdhury, S/o.Yugandhar; Photo copy of the acknowledgment/resident copy for Adhar card of Nemalipuri Badal Chowdhury, S/o.Yugandhar; resident certificates of the petitioner dated 23.05.2014, 26.05.2014 and 12.06.2014 issued respectively by Sarpanch, Karajada village, Village Revenue Assistant Karajada village and Village Revenue Office, Meliatputti Mandal; and receipts dated 29.12.2012 issued by Narayana e-Techno school, Palasa for school fee for the son of the petitioner*, after granting the necessary leave. According to the petitioner, the respondent had filed a counter in the MOP making various allegations that he had subjected her to cruelty and that on that she gave a report to the police and that the police have registered a crime for the offence punishable under Section 498-A of the IPC and that in view of the said defence taken by the

respondent in her counter, the necessity of filing the said documents has arisen and that the filing of the said documents, though they relate to the events subsequent to the filing of the petition, is necessary to substantiate the case of the petitioner. The said application was resisted by the respondent by filing a counter *inter alia* contending that the petition is intended for delaying the disposal of the MOP and that the petitioner was enlarged on bail in the criminal case and that the documents ought to have been filed at an appropriate time but not with undue delay.

4. At the hearing, the learned counsel for the revision petitioner/husband would contend that the documents, though are subsequent to the filing of the OP, the said documents disclose the subsequent developments; and that the Court is entitled to take into consideration the subsequent events, which are relevant for consideration, while adjudicating the *lis*; and that merely on the ground that the documents are subsequent to the filing of the OP the trial court ought not to have rejected to receive the documents on file; and that the probative value of the documents has to be decided at an appropriate later stage but not while deciding the application for granting leave for receiving documents on file.

5. The learned counsel for the respondent while supporting the orders of the Court below contended that all the documents are subsequent to the filing of the OP as rightly observed by the Court below and that, therefore, there is no merit in the revision petition.

6. I have noted the facts and given earnest consideration to the submissions.

7. The court below by the order impugned had refused to grant leave and receive the documents on file for the main reason that all the documents are subsequent to the filing of the MOP and that the said documents deal with subsequent events and, therefore, not relevant for deciding the rights of the parties in the *lis*. As rightly contended, the probative value of the documents has to be adjudged at an appropriate later stage but not while considering the application for receiving documents on file. It is trite to note that whenever

leave sought for is granted and further documents are permitted to be filed during the course of trial, the said documents would generally/normally be received on file subject to proof, admissibility and relevancy; and the said three aspects would come up for consideration at a later stage, that is at a stage when a witness tenders the documents in evidence for being exhibited; further, most of the times, the considerations like proof or disproof and the probative value of the documents would be relegated to a further later stage, i.e., the stage of evaluation and appreciation of evidence and adjudication of the issues involved in the *lis*. Even though the documents are subsequent to the filing of the OP, the first document is the certified copy of the FIR, which is a public document, which cannot be disputed and the other documents are the copies of Adhar cards and residential certificates of the petitioner besides school fee receipts of the child of the parties, according to the submissions of the learned counsel for the petitioner. The learned counsel for the petitioner would submit that the said documents are essential to establish the case of the petitioner.

8. Having regard to the reasons assigned and the submissions made on behalf of the petitioner and considering the fact that when the matter is before the trial court reasonable and fair opportunity shall be given to the parties to adduce necessary documentary evidence, this court is satisfied that the order impugned calls for interference.

9. In the result, the Civil Revision Petition is allowed and the order impugned is set aside. As a sequel, IA.No.10 of 2015 in MOP.No.8 of 2014 is allowed and the trial Court is directed to receive the documents on file subject to proof, admissibility and relevancy. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this civil revision petition shall stand closed.

M. SEETHARAMA MURTI, J

Date:24.02.2016

Vjl

