

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.11115 of 2009

ORDER:

1. The petitioner is a Police Constable working in AR Sub-Headquarters at Godavarikhani. He married respondent No.3 in the year 1983 and out their wedlock a daughter was born. Thereafter, some family dispute arose. He was not living with respondent No.3 from the year 1993 onwards. Respondent No.3 submitted a representation to respondent No.2, who passed an order dated 15.12.1997 for recovery of half of the total amount drawn by the petitioner every month from December 1997 till his retirement from service and pay the same to respondent No.3 at the address mentioned by her. Challenging the said order dated 15.12.1997 the present writ petition was filed.

2. This Court by order dated 09.06.2009 suspended the proceedings dated 15.12.1997, but directed payment of regular maintenance amount.

3. A perusal of the impugned order shows that respondent No.2 passed the order of maintenance in favour of the 3rd respondent on her application and acted as a Civil Court. There is no justification and sanction of law conferred on respondent No.2 to pass such an order. If the 3rd respondent is entitled for any maintenance amount, it is always open to her to approach the competent Court of law seeking the amount of maintenance or appropriate relief. But, the 2nd respondent is incompetent to settle the marital dispute between the petitioner and the 3rd respondent.

4. In the circumstances, the impugned order dated 15.12.1997 and the consequential order dated 19.05.2009 are set aside. However, the amount already paid by the petitioner to respondent No.3 need not be recovered by him. Respondent No.3 is at liberty to approach competent Court of law for appropriate relief, if she is so advised.

5. The Writ Petition is allowed accordingly. No order as to costs.

6. Miscellaneous petitions, if any, pending shall stand closed.

_____ **A.RAMALINGESWARA RAO, J**

16-02-2016

Gsn