

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE M.S.K.JAISWAL

CMA.No.1020 of 2006

Date:03.11.2016

Between:

Appapurapu Bhavani Prasad,
S/o Bhavanarayana

..... Appellant

And:

Appapurapu (Yakkala) Kavitha
Kumari, W/o Bhavani Prasad

....Respondent

Counsel for the appellant: Mr. A.Gopalakrishnama Charyulu
For Mr. Ravi Shankar Jandyala

Counsel for the respondent: Mr. J.L.Babu

The Court made the following:

JUDGMENT: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

This Civil Miscellaneous Appeal is filed against the order and decree, dated 07.8.2006, in HMOP.No.94 of 2005 on the file of the learned Additional Senior Civil Judge, Tenali, whereby she has dismissed the said O.P. filed by the appellant under Section-13(ia) (ib) of the Hindu Marriage Act, 1955.

At the hearing, the learned counsel for both the parties reported no instructions. Though we have adjourned the appeal on 16.9.2016 and 27.9.2016, no paper book is prepared by the learned counsel for the appellant, as a result of which, the pleadings and the evidence on record are not placed before the Court.

A perusal of the order under appeal shows that the appellant has filed H.M.O.P.No.176 of 2001 for annulment of the marriage on the ground that the respondent was suffering from frigidity and she has no capacity to bear children and that the said O.P. was dismissed by the trial Court. The lower Court while observing that the appeal filed by the appellant against the said order is pending before this Court, declined to grant the decree of dissolution of marriage on the ground that as the allegation of cruelty, based on the incapacity of the respondent to lead conjugal life, itself is the subject matter of an appeal before this Court, the said issue cannot be independently gone into in HMOP.No.94 of 2005.

Learned counsel for the appellant submitted that he has no information as to whether the appeal stated to have been filed against the order in HMOP.No.176 of 2001 is pending or the same is disposed of. In the absence of information on this aspect and also non-filing of the material such as pleadings and evidence, it is not possible for this Court to adjudicate the appeal on merits. In view of the same, the appeal is liable to be dismissed and the same is, accordingly, dismissed.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE M.S.K.JAISWAL

03rd November 2016

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