

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA**

CIVIL MISCELLANEOUS APPEAL No. 390 OF 2008

DATED 29TH APRIL, 2016

BETWEEN

N. Susmitha

....Appellant

And

N.Ravinder Goud

...

Respondent.

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA**

CIVIL MISCELLANEOUS APPEAL No. 390 OF 2008

**JUDGMENT: (Per Hon'ble Sri Justice
G.CHANDRAIAH)**

This Civil Miscellaneous Appeal under Order 43 Rule 1 CPC is preferred aggrieved by the order dated 26.02.2008 passed in I.A.No.546 of 2006 in O.P.No.60 of 2005 by the learned Senior Civil Judge, Nizamabad, whereby and wherein, the request of the appellant/petitioner to set aside the *ex parte* decree dated 5.7.2006 passed against her was turned down.

The respondent-husband filed OP.No.60 of

2005 under Section 13(ia)(ib)& (iii) of the Hindu Marriage Act, 1955 before the Court of learned Senior Civil Judge, Nizamabad, seeking a decree of divorce dissolving the marriage between him and respondent-wife. The trial Court by *ex parte* order dated 05.07.2006 allowed the said OP dissolving the marriage solemnized between the appellant-wife and respondent-husband on 12.12.2002. Thereafter, the appellant-wife filed I.A.No.546 of 2006 in OP.No.60 of 2005 seeking to set aside *ex parte* order dated 05.07.2006 and the trial Court by impugned order dated 26.02.2008 dismissed the same. Hence the present appeal.

Heard learned Counsel on either side.
Perused the material on record.

This Court by order dated 7.5.2008 granted interim injunction restraining the respondent-husband from remarrying another women, pending disposal of the appeal. The learned Counsel for the appellant-wife stated before us under what circumstances the appellant-wife has not represented the matter properly.

Considering the fact that the appeal is of the year 2008, we are not proposing to go into the merits or otherwise of the subject matter at this length of time. We are of the view that ends of justice would be best served if I.A.No. 546 of 2006

in OP.No.60 of 2005 is allowed by setting aside the order dated 26.02.2008 passed therein by the trial Court to enable the appellant-wife to contest the OP filed by the respondent-husband. The learned Counsel appearing on either side expressed no objection for the same.

Accordingly, in the interest of justice, this Civil Miscellaneous Appeal is allowed setting aside the order dated 26.02.2008 passed in I.A. No. 546 of 2006 in OP.No.60 of 2005 by the learned Senior Civil Judge, Nizamabad. Consequently I.A.No.646 of 2006 is allowed and OP.No.60 of 2005 is restored to file. As OP.No.60 of 2006 is of the year 2005, the learned Senior Civil Judge, Nizamabad is directed to dispose of the said OP as expeditiously as possible.

Miscellaneous petitions pending consideration if any in the appeal shall stand closed in consequence. No order as to costs.

JUSTICE G.CHANDRAIAH

JUSTICE A.SHANKAR NARAYANA

DATED 29th April, 2016.
Msnr_x

