

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2323 of 2016

ORDER:

Assailing the order dated 12.03.2016 passed in I.A.No.1610 of 2015 in F.C.O.P.No.86 of 2014 on the file of the Judge, Family Court-cum-V Additional District Judge, Tirupati, the present Civil Revision Petition is filed by party-in-person, wherein the trial Court allowed the petition to set aside the exparte order dated 27.11.2014.

The facts in issue are as under:

The petitioner herein filed F.C.O.P. seeking various reliefs against the respondents herein. In the said O.P. the husband of the petitioner remained exparte on 27.11.2014. He filed I.A.NO.1610 of 2015 to set aside the exparte order dated 27.11.2014 on the ground that as he is residing in U.S.A. due to his employment and due to pressure of work he could not appear before the Court personally on 27.11.2014.

The petitioner filed counter in the said petition contending that her husband could not provided any maintenance to her and not agreed to take her to U.S.A. and only to drag on the matter the said petition is filed.

After hearing both sides the trial Court allowed the said petition on condition that the husband shall pay a sum of Rs.5,000/- to the wife as costs on or before 01.04.2016. Aggrieved by the same, the present Civil Revision Petition is filed.

The petitioner, who appeared in-person, submits that her husband is absconding since long time and a Look Out Circular and Red Corner Alert, Extradition file are issued and non-bailable warrant also pending for more than two years. She further submits that without filing the counter the exparte order was set aside by the trial Court, which is in violation of principles of natural justice and contrary to law. The trial Court failed to appreciate the conduct of her husband in D.V.C., Maintenance Case and Calendar Case filed by the petitioner. In the said cases also her husband remained exparte. She further submits that without issuing any notice to her, her husband filed case for divorce/legal separation before the U.S.A. Court which was allowed on 13.03.2015. She further submits that there is absolutely no sufficient cause which prevented her husband from appearing before the Court and the reason assigned by him is invented, but the lower Court without appreciating the same allowed the petition and set-aside the exparte order.

Learned counsel appearing for the respondents contended that the husband of the petitioner is working in U.S.A. and due to pressure of work and as he could not get visa, he is unable to come to India and appear before the Court. Non-appearance of the petitioner before the trial Court is neither intentional nor wanton.

A perusal of the material on record would show that admittedly the respondent is working in U.S.A. and the petitioner contended before the trial Court that her husband not agreed to take her to U.S.A. Though there is no limitation for filing petition to set aside the exparte order, but the Courts have to construe sufficient cause liberally. From the material on record the cause

shown by the husband before the trial Court appears to be sufficient cause as he is working in U.S.A. could not get visa he could not appear before the trial Court. In view of the foregoing reasons, I am of the view that there is no error or infirmity in the order of the lower Court and the same does not require interference.

Accordingly, the Civil Revision Petition is disposed of. The costs imposed by the trial Court is enhanced from Rs.5,000/- to Rs.20,000/-.

Miscellaneous Petition, if any, pending in this Civil Revision Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

22.07.2016

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