

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 4346 of 2016

ORDER:

1) Aggrieved by an order, dated 02.08.2016 passed in I.A.No.927 of 2016 in F.C.O.P.No.117 of 2014 on the file of the Judge, Family Court-cum-V Additional District Judge, Tirupati, wherein an application filed under Order VIII Rule 9 read with 151 of C.P.C. seeking permission to file additional counter was allowed, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

2) It is to be noted that the respondent herein filed F.C.O.P.No.117 of 2014 under Section 9 of the Hindu Marriage Act seeking restitution of conjugal rights. Pending the said O.P., the petitioner filed counter. During the course of evidence of the respondent, the petitioner came to know that all the difficulties which were faced by her from the date of marriage were not mentioned in the counter filed earlier. It is the case of the respondent that her previous counsel did not mention in the counter the difficulties faced by her from the date of marriage in the hands of the petitioner. She came to know that without pleading there cannot be any evidence to the factual aspects which occurred in her matrimonial home. It is stated that after issuing notice

for divorce, the husband filed petition for restitution of conjugal rights. Hence, she filed the petition seeking permission to file additional counter. A counter came to be filed opposing the same. After considering the evidence available on record, the trial Court passed the following order:

“The dispute between the parties is matrimonial dispute wherein both parties can be allowed to place pleadings relevant for the purpose of deciding the prayer of the respondent. Though there is a delay in filing the petition that itself is not ground to reject additional counter and how far contents mentioned in the counter are true and correct is subjected to cross examination during the course of her evidence in the main petition. To give an opportunity to the petitioner/ wife to put forth her contention with regard to her matrimonial dispute, she can be allowed to file additional counter. Hence, the petition is allowed.”

3) Learned counsel for the petitioner submits that an opportunity may be given to the petitioner to file reply to the additional counter and to adduce additional evidence, if permissible under law.

4) Having regard to the facts and circumstances of the case, the petitioner is permitted to file reply to the additional counter filed by the respondent and insofar as

adducing additional evidence, he shall make a suitable application before the trial Court, in which event the same shall be considered in accordance with law.

5) Accordingly, the Civil Revision Petition is disposed of. There shall be no order as to costs.

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

17.09.2016
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JUSTICE C. PRAVEEN KUMAR

