

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

CMA.No.644 of 2016

Date:01.9.2016

Between:

Sigaram Divya Santhoshi,
D/o Subrahmanyam

..... Appellant

And:

Vamsi Krishna Repalle,
S/o Chakrapani

....Respondent

Counsel for the appellant: Mr. K.Pradeep Reddy

Counsel for the respondent: Mr. Sujith Jaiswal

The Court made the following:



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

This Civil Miscellaneous Appeal is filed against order and decree, dated 14.7.2016, in H.M.O.P.No.11 of 2016 on the file of the learned Senior Civil Judge, Kavali.

The parties to this appeal have jointly filed the aforementioned H.M.O.P. for dissolution of their marriage by mutual consent under Section-13-B of the Hindu Marriage Act, 1955 (for short 'the Act').

After the O.P. was registered and during the counselling, the lower Court appeared to have elicited from the appellant that though she is a permanent resident of Kavali, she has been residing in Bangalore in connection with her employment from 2014 onwards. Based on this information, the lower Court has returned the petition for presentation in proper Court. Feeling aggrieved by this order, this Civil Miscellaneous Appeal is filed by one of the petitioners, *i.e.*, the wife of the respondent.

On 29.8.2016, the case has been adjourned to enable both the parties to be present in the Court. Accordingly, both the parties have appeared before us today. They have expressed a strong desire to get separated.

The appellant has stated that her parents are permanent residents of Kavali and that, only in connection with her employment, she has been temporarily residing in Bangalore. She has further stated that though her marriage was solemnised

at Tirupati, the same was registered on 15.11.2014 at the Sub-Registrar's Office, Kavali. In support of her above pleas, she has filed the wedding invitation, certificate of marriage and her Aadhar card.

A perusal of the wedding invitation shows that the parents of the appellant are residents of Kacherimitta of Kavali, Nellore District. The certificate of marriage shows that the marriage of the parties was registered on 15.11.2014 in the Sub-Registrar's Office at Kavali. A copy of the Aadhar Card of the appellant also shows that she is a permanent resident of Door No.10-47/8 of Kacherimitta, Kavali, Nellore District.

Though Section-19 of the Act referred to the places where the marriage was solemnised or the respondent, at the time of presentation of the petition, resides, in our opinion, they need to be interpreted depending upon the factual matrix of each case. The event of registration of marriage also, in our view, is relevant in construing the phrase "the marriage was solemnised". Similarly, the place where the respondent resides also needs to be understood in a proper sense. If a person is a permanent resident of a place, merely because he/she is temporarily residing at a different place, it cannot be said that the Court within whose jurisdiction the person is a permanent resident does not have jurisdiction to entertain the Petition.

This is a case where a joint petition was filed by both parties for dissolution of the marriage. The consideration in such joint petition varies, while construing Section-19 of the Act, from that arising in a case where the petition is contested by the parties. Therefore, on the facts of the present case, the lower Court ought to have construed Clauses-(i) and (ii) of Section-19 of the Act from a proper perspective and taken a more liberal view.

In view of the above facts, the order of the lower Court is set aside. Since the statutory period of six months from the time of filing of the O.P. had already expired, we allow HMOP.No.11 of 2016 and grant the decree for dissolution of marriage by mutual consent to the parties in this appeal.

The Civil Miscellaneous Appeal is, accordingly, allowed.

As a sequel to disposal of the Civil Miscellaneous Appeal, CMAMP.No.1320 of 2016 filed by the appellant for interim relief is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE G.SHYAM PRASAD

01st September 2016

DR