

*IN THE HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA  
PRADESH*

FCA.No.184 of 2016

Between:

Chiliveru Sai Ram Sagar,  
S/o Ch. Vidya Sagar

... Petitioner

And

Bandaru Haripriya,  
W/o Chiliveru Sai Ram Sagar

... Respondent

JUDGMENT PRONOUNCED ON 10.11.2016

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

1. Whether Reporters of Local newspapers : No  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be  
marked to Law Reporters/Journals? : Yes
3. Whether Their Lordships wish to  
see the fair copy of the Judgment? : Yes

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JUSTICE C.V.NAGARJUNA REDDY

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JUSTICE M.S.K.JAISWAL

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE M.S.K.JAISWAL

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.....Respondent

< Gist:

> Head Note:

! Counsel for the appellant: Mr. V.Hari Haran

? Cases Referred:

NIL



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

FCA.No.184 of 2016

Date:10.11.2016

**Between:**

Chiliveru Sai Ram Sagar,  
S/o Ch. Vidya Sagar

..... Appellant

**And:**

Bandaru Haripriya,  
W/o Chiliveru Sai Ram Sagar

....Respondent

Counsel for the appellant: Mr. V.Hari Haran



The Court made the following:

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

This appeal arises out of order, dated 22.7.2016, in O.P.No.1105 of 2015 on the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar.

We have heard Mr. V.Hari Haran, learned counsel for the appellant and perused the record.

The appellant and the respondent who are husband and wife respectively, filed O.P.No.1105 of 2015 on the file of the Judge, Family Court, Ranga Reddy District at L.B.Nagar under Section-13B of the Hindu Marriage Act, 1955 (for short 'the Act') for grant of a decree of divorce by way of mutual consent. On 27.6.2015, the said O.P. was posted to 22.7.2016 by the lower Court before which, both the parties were present. The respondent-wife represented before the lower Court that she is not interested in seeking divorce by mutual consent and expressed her wish to continue the relationship with the appellant-husband. She has also filed a memo to that effect. In those circumstances, the lower Court has dismissed the O.P. leaving the appellant free to take appropriate steps available under law. Feeling aggrieved by this order, the husband filed this appeal.

Mr. V.Hari Haran, learned counsel for the appellant, submitted that after the O.P. was admitted by the lower Court, the appellant has paid certain amounts and returned the jewellery, etc., to the respondent and that, taking undue advantage of the same, the respondent has refused to co-operate with the appellant in dissolution of the marriage by mutual consent. He has further submitted that under Sub-section-(2) of Section-13B of the Act, a duty is cast on the Family Court to hold an inquiry as to the *bona fides* of the parties before taking a decision.

We have carefully considered the submissions of the learned counsel for the appellant.

Section-13B of the Act provides for grant of decree of divorce by mutual consent. Under sub-section-(1) thereof, a petition for dissolution of marriage by a decree of divorce may be presented to the District Court by both the parties to a marriage together on the ground that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

Sub-section-(2) of Section-13B of the Act, on which the learned counsel for the appellant has placed heavy reliance, reads as under:

“On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section-(1) and not later than eighteen months after the said date, if the petition is not withdrawn in the meantime, the Court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnised and that the averments in the petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree.”

We are of the opinion that the inquiry under Sub-section-(2) of Section-13B of the Act is intended for the Court to be satisfied as to whether the averments in the petition for grant of dissolution of the marriage by mutual consent are correct or not and not for enquiring as to whether the unwillingness of one of the parties for dissolution of the marriage was *bona fide* or not. The words “if the petition is not withdrawn in the meantime” would clearly indicate that once the petition is withdrawn, the jurisdiction of the Court to proceed further with the case ceases. As the petition is filed jointly by both parties, in our view, withdrawal of the same by one party amounts to withdrawal of the petition within the meaning of Sub-section-(2) of Section-13B of the Act. The memo of the respondent expressing her unwillingness to seek divorce should be treated as the withdrawal of the petition as far as she is concerned. Once such

withdrawal is made, the Court has no option other than dismissing the petition.

On the analysis as above, we do not find any merit in this appeal and the same is, accordingly, dismissed.

As a sequel to dismissal of the appeal, FCAMP.No.459 of 2016 filed by the appellant for interim relief is dismissed as infructuous.

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*JUSTICE C.V.NAGARJUNA REDDY*

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*JUSTICE M.S.K.JAISWAL*

*10<sup>th</sup> November 2016*

*Note:*

*LR copies to be marked.*

*B/o*

*DR*

