

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

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

F.C.A.No. 133 OF 2016

DATED 20TH OCTOBER, 2016

Between:

Gandham Neethi Susan ... Appellant

AND

Noha George D'Costa ... Respondent

Counsel for the appellant : Sri N.Subba Rao

Counsel for the respondent : Sri M.E.Chandrasekhar

THE COURT MADE THE FOLLOWING

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

This Family Court Appeal is filed against order and decree dated 24-06-2016 in F.C.O.P.No. 335 of 2014 on the file of the Judge, Family Court, Secunderabad (for short, 'the lower Court'), to the extent of the direction issued by the lower Court to the appellant to handover the car of TATA Safari make and transfer the registration in favour of the respondent.

2. We have heard learned counsel for both parties and perused the record.

3. The appellant has filed the aforementioned O.P. under Section 10 (x) of the Divorce Act, 1869, read with Section 7 of the Family Courts Act, 1984. The respondent has given his consent for granting decree for divorce. However, an issue arose regarding TATA Safari vehicle. Though, the respondent insisted on return of the vehicle on the ground, the car was registered in the name of the appellant, it was purchased with his money, the appellant, however, pleaded before the lower Court that she has paid Rs.2,00,000/- towards initial payment apart from payment of six installments towards car loan. The respondent has averred that he has paid the entire money including the repayment of installments to the bank which granted loan for purchase of the car. The lower Court, on appreciation of evidence on record, rendered a finding that the plea of the appellant, that she has paid the initial amount of Rs.2,00,000/- and also six installments to the bank, is not supported by any evidence and that on the contrary, some of the loan receipts marked as Ex.B1 produced by the respondent supported his claim that he has paid the entire money for the purchase of the car.

4. In the counter affidavit filed by the respondent in this appeal, he has *inter alia* stated that as the financing bank has seized the vehicle, he has filed

W.P.No. 24795 of 2015, wherein this Court has passed an order and in pursuance of which, he has paid Rs.32,320/- and Rs.6,47,829/- under challan Nos. 481812 and 939137 on 18-01-2016. He has also averred that he has purchased the TATA Safari vehicle under the scheme of exchange of old safari car for which he has got Rs.3,00,000/-, that a car loan of Rs.8,00,000/- was sanctioned by H.D.F.C. Bank and that in addition to the said loan amount and the sum of Rs.3,00,000/- obtained in exchange of the old car, he has also paid a sum of Rs.1,04,300/-. He has further averred that he has repaid all the 60 installments @ Rs.18,000/- per month to the H.D.F.C. Bank under the aforementioned two challans. Along with the counter affidavit, he has also filed copies of various challans, the authenticity of which is not disputed by learned counsel for the appellant.

5. The aforementioned pleadings of the parties and the material filed in support of the same as discussed above would clearly show that except that the vehicle stands in the name of the appellant, she has not paid any amount either to the dealer, which supplied the car, or to the bank which sanctioned the loan and that on the contrary, it is only the respondent who has paid the entire amount. In the aforementioned facts of the case, we do not find any reason to interfere with the direction issued by the lower Court to the appellant to handover the physical possession of and transfer the vehicle in favour of the respondent.

6. The Family Court Appeal is, accordingly, dismissed.

7. As a sequel to dismissal of the appeal, F.C.A.M.P.No. 325 of 2016 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J.

M.S.K.JAISWAL, J.

Date: 20-10-2016.

JSK

