

***HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**
+ C.R.P.Nos.324 and 721 of 2016

% 19-08-2016

C.R.P.No.324 of 2016

#Purnima.R

....Petitioner

Vs.

\$ Ramakanth Vadlamani

.... Respondent

C.R.P.No.721 of 2016

#V.Ramakanth

....Petitioner

Vs.

\$ Purnima Ramanna

.... Respondent

!Counsel for the Petitioner (wife) : M/s.V.V.Raghavan

Counsel for the Respondent (husband) : Smt.Deepika Gadde

<Gist :

>Head Note:

? Cases referred:

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
CIVIL REVISION PETITION Nos.324 & 721 of 2016

COMMON ORDER :

Heard both sides and perused the material on record covered by the two revisions. One is impugning the quantum by the husband as excessive of Rs.50,000/- per month with legal expenses of Rs.1,00,000/- and the other is impugning by the wife of the same is utterly low to enhance.

The fact that the wife's resignation letter dated 19.03.2015 accepted forthwith itself is an indication of resignation is voluntarily in the absence of demonstrating by any cogent material of she was compelled to give the resignation letter despite no better alternative. That itself is an indication of she is capable of earning near to equal sum if not to draw the inference of but for better position she could not have been resigned. No doubt, there is nothing on record, even she is otherwise capable of earning, to draw some inference, of she is working anywhere but for a vague oral contention of the husband.

2) Leave it as it is for same can be considered as part of some means of her, so far as means of the husband concerned, it is the claim of he is earning \$12,500/- = Rs.6,25,000/- per month as on the date of filing the application for interim maintenance from the dollar value and even under Section 106 of Indian Evidence Act the burden is on the husband when he is working, undisputedly, to establish what is his monthly earnings and when the same is not demonstrated by him by withholding best evidence if not drawing not less than that amount and also from burden on him to rebut as per Section 106 of the Indian Evidence Act thereby, it can be safely taken into consideration his earnings are not less than Rs.6,25,000/- per month. Thus, from the material on record wife shown capable of earning and earlier she even worked and resigned and the husband is affluent and even the fact demonstrates from the record of

there is a joint purchase of house by availing bank finance as a secured loan and instalments are being paid according to the wife, she also equally, if not for the husband to pay as the purchase was while their relationship was in cordial, leave it as it is once the material was taken into consideration by the lower Court in awarding Rs.50,000/- per month and even this Court while suspending the operation of the lower Court's order on the revision of the husband directed to pay Rs.40,000/- p.m; this Court feels from the factual scenario supra and to subserve the ends of justice from even taken the wife capable of earning and resigned voluntarily by taken it into consideration of part of her means and for further entitlement from what the husband earning that could not be disputed by him by showing by any material, of best evidence available with him not filed like salary slip atleast, Rs.55,000/- per month is just to enhance from Rs.50,000/- per month while upholding the sum awarded as legal expenses by allowing the revision filed by the wife and by dismissing the revision filed by the husband.

C.R.P.No.324 of 2016:

3) In the result, the revision is partly allowed by enhancing the interim maintenance from Rs.50,000/- to Rs.55,000/- and the order of the trial Court in all other respects holds good. The respondent-husband is directed to pay all arrears within three months from date of receipt of his common order, failing which the petitioner wife can either execute and recover or take any other legal recourse like

filing under Section 151 C.P.C of application to stay and dismiss the main application of the husband for non-payment or to struck off his defence in any main application of her for the non-payment as the case may be to decide with opportunity of hearing by the trial Court.

C.R.P.No.721 of 2016:

4) In the result, the revision is dismissed.

5) There shall be no order as to costs. Pending miscellaneous petitions, if any in the above two revisions, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

19.08.2016

N.B: L.R copy to be marked.

(b/o) ksh