

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE MS JUSTICE J.UMA DEVI

CIVIL MISCELLANEOUS APPEAL No.213 of 2017

Date:07.6.2017

Between:

Palathirdam Markendeyulu,
S/o Late Govinda Rajulu

..... Appellant

And:

Palathirdam @ Buragapu Umamaheswari,
W/o Palathirdam Markendeyulu

.....Respondent

Counsel for the appellant: Mr. P.Raj Kumar

Counsel for the respondent: Mr. K.Sai Ram Murthy

The Court made the following:

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

This Civil Miscellaneous Appeal arises out of order and decree, dated 10.02.2017, in M.O.P.No.126 of 2012 on the file of the Additional Senior Civil Judge, Srikakulam, whereby he has decreed the afore-mentioned M.O.P filed by the respondent for dissolution of marriage with the appellant.

At the hearing, both parties are personally present. It is brought to the notice of this Court by both parties that after the marriage between them was dissolved, the respondent has remarried. Indeed, the person, whom the respondent remarried, is also personally present at the hearing.

The appellant as well as his counsel have tried to impress upon this Court that the remarriage of the respondent shall not be recognised in law as, the same was contracted even before the expiry of the appeal time.

No doubt, under Section-15 of the Hindu Marriage Act, 1955, a divorced person can marry again if there is no right of appeal against the decree or even if there is such a right of appeal, the time for appeal has expired without an appeal having been presented or an appeal has been presented and that has been dismissed.

Undoubtedly, in the present case, not only that the appellant has a right of appeal, but he has filed such an appeal before the expiry of limitation.

Mr. K.Sai Ram Murthy, the learned counsel for the respondent, submitted that at the instance of her family members, the respondent married again as she was left with no other option.

Technically speaking, the remarriage of the respondent cannot be recognised in law. However, after the appellant was counselled by us, he has reconciled himself. He has, however, expressed concern about the adverse findings given against him by the lower Court on the allegations of cruelty levelled by the respondent against him.

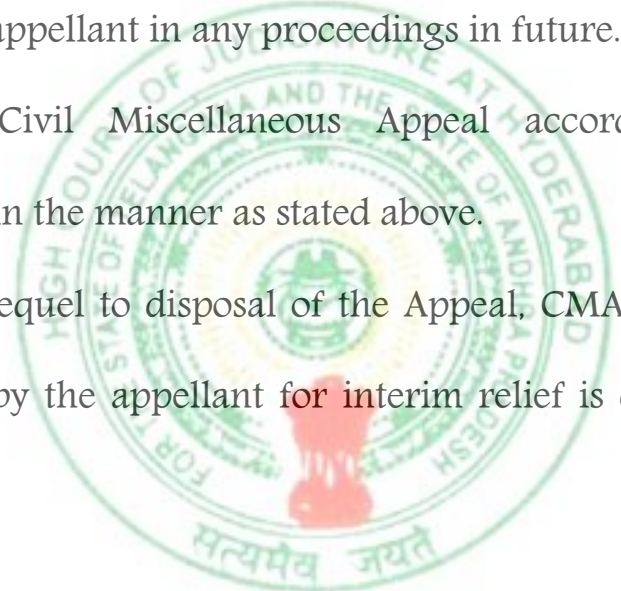
Mr. K.Sai Ram Murthy, learned counsel for the respondent, has fairly submitted that though the findings of cruelty constituted the basis for grant of divorce, in the peculiar facts of this case, all those findings against the appellant may be expunged.

It has come to the notice of this Court that criminal case filed by the respondent against the appellant under Section-498-A IPC ended in acquittal of the appellant and that the said judgment has become final.

Taking into consideration the afore-mentioned peculiar facts of the case and keeping in view the interests of both parties, we are of the opinion that no purpose will be served by admitting this Appeal. Instead, while disposing of the Appeal, we expunge all the adverse findings rendered by the lower Court against the appellant on the allegations of cruelty made by the respondent. We further direct that these findings shall not be relied upon either by the respondent or by any other third party against the appellant in any proceedings in future.

This Civil Miscellaneous Appeal accordingly stands disposed of in the manner as stated above.

As a sequel to disposal of the Appeal, CMAMP.No.358 of 2017 filed by the appellant for interim relief is disposed of as infructuous.



JUSTICE C.V.NAGARJUNA REDDY

JUSTICE J.UMA DEVI

07th June 2017

DR