

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.1950 of 2017

ORDER :

The Civil Revision Petition is filed by the petitioner, aggrieved by the order dated 16.03.2017 in I.A.No.690 of 2016 in F.C.O.P.No.1279 of 2015 on the file of the Judge, Family Court, Ranga Reddy District.

2. The petitioner, who is no other than husband of the respondent filed the said F.C.O.P. seeking divorce. Pending the same, wife filed I.A.No.690 of 2016 under Section 24 of the Hindu Marriage Act for interim maintenance.

3. It is her averments in the said I.A. that she has no means and unable to maintain and the respondent/ husband got job earning more than Rs.75,000/- p.m., thereby, interim maintenance to be awarded. The respondent/ husband opposed the petition.

4. The impugned order of the lower Court speaks that the respondent/ husband failed to place any material before the Court to show that his wife is doing job and earning on her own in support of his contention and she is also suffering from ill-health that is also not disputed by him and once it is her submission of she is unable to do job and unable to maintain for nothing to show the allegation is false and once she is contending of he is earning more than Rs.75,000/- p.m. which he did not choose to deny, Rs.10,000/- p.m. towards interim maintenance is just to award.

5. In the revision, the main contention of the petitioner/ husband in impugning awarding of Rs.10,000/- p.m. interim maintenance is that allegation of the father of his wife is getting only Rs.3,000/- p.m. pension and she is dependent said income of her fathers pension is not true. The learned counsel for the petitioner placed reliance upon the internet retrieved print out showing his wife by name N.Sai Prasanthi is working as Associate Professor in Avanthi Institute of Pharmaceutical Sciences, Gunthapally. It shows she is doing the job from 22.07.2016 which is the date when she joined. The interim maintenance application filed by her was on 17.05.2016. Though it can be said that as on the date of filing of the interim maintenance application in May, 2016 she did not join in service since it is in July, 2016, it is her duty to bring to the notice of the learned Judge, Family Court, while passing the impugned order for interim maintenance on 16.03.2017, which is subsequent to her date of joining duty and while in employment to consider the same also.

6. Along with the counter opposing the revision and supporting the impugned order of the lower Court, the revision respondent/ wife claims that she as relieved from the duty as Associate Professor in Avanthi Institute of Pharmaceutical Sciences w.e.f. 30.04.2017. If the same is taken into consideration, even as on the date of passing of the order, she was working. That fact is not considered by the lower Court. No doubt, mere working and getting some income is not sufficient to reject the interim maintenance from the settled expressions including in case of interim maintenance for the quantum to be awarded is subject to the means of the parties to be considered on sufficiency to live at the same status of the opposite spouse. Once

such is the case, the matter requires reconsideration by the lower Court.

7. Accordingly, the Civil Revision Petition is allowed and the impugned order dated 16.03.2017 in I.A.No.690 of 2016 in F.C.O.P.No.1279 of 2015 passed by the Judge, Family Court, Ranga Reddy District, is set aside and the matter is remitted back to the lower Court to restore the petition and decide afresh within a period of one month from the date of receipt of copy of this order. Both parties are permitted to file documents and if necessary adduce any oral evidence. If at all the main F.C.O.P. as of now dismissed for non-payment of interim maintenance, by virtue of this order the impugned order is set aside and if not dismissed the lower Court is directed to proceed with the enquiry/ trial in deciding on merits.

8. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Date:07-11-2017

Dr. B. SIVA SANKARA RAO, J

Note:
Issue C.C. tomorrow.

B/ o.
pab