

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL MISCELLANEOUS APPEAL No.3759 of 2003

JUDGMENT: (per SK,J)

This appeal by the husband under Section 28 of the Hindu Marriage Act, 1955 (for short, 'the Act of 1955'), arises out of the order dated 22.08.2003 passed by the learned Senior Civil Judge, Bodhan, in I.A.No.55 of 2003 in O.P.No.9 of 2002. The said O.P. was filed by the husband under Section 13 of the Act of 1955 seeking dissolution of the marriage on the ground of desertion. Therein, the wife filed I.A.No.55 of 2003 under Section 24 of the Act of 1955 praying for grant of maintenance *pendente lite* at Rs.2,000/- per month for herself and Rs.4,500/- per month for her three children. She also claimed Rs.5,000/- towards the expenses of the proceedings. By the order under appeal, the trial Court directed the husband to pay Rs.1,000/- per month to the wife for her maintenance and Rs.500/- per month for her three children apart from Rs.2,000/- for the expenses of the proceedings.

By order dated 27.10.2003, this Court granted interim suspension of the operation of the order under appeal subject to the husband depositing the legal expenses within a time frame. The wife was granted liberty to withdraw the amount so deposited.

Heard Sri K.Devender, learned counsel representing Sri K.Raghuveer Reddy, learned counsel for the husband, and Sri M.Rajamalla Reddy, learned counsel for the wife.

Sri K.Devender, learned counsel, would submit that the trial Court failed to take into account the fact that the wife is in possession of the husband's agricultural land and a residential house and was self-sufficient. He would contend that the wife filed an independent application in M.C.No.8 of 1998 under Section 125 Cr.P.C. for maintenance and by order dated 15.10.1999 passed therein, the learned Judicial First Class Magistrate, Bodhan, directed payment of Rs.300/- to the minor daughter, Hingu Sandya, and a sum of Rs.200/- for the minor son, Hingu Naveen. Learned counsel would further contend that this was also not taken into account by the trial Court.

Having perused the order under appeal, we find that the trial Court considered all aspects of the matter, including the factum of the wife being in possession of the agricultural land belonging to the husband. Upon such consideration, the trial Court awarded the meagre sum of Rs.1,000/- per month to the wife for her maintenance and the paltry sum of Rs.500/- per month for all the three children put together.

We find no ground to interfere with the order under appeal at this stage. It is brought to our notice that all the three children would have attained the age of majority during the pendency of this appeal. Sri M.Rajamalla Reddy, learned counsel, would further state that he is not in contact with his client and therefore cannot divulge any details as to the marital status of the children as on date.

On a conspectus of the aforestated facts and circumstances, we confirm the order under appeal. However, the appellant/husband shall be liable to pay the maintenance amount in terms of the said order to the children up to the date of their attaining majority. He would however be liable to pay the maintenance amount as determined by the trial Court to the respondent/wife pending disposal of the O.P. As the O.P. relates to the year 2002, the trial Court shall endeavour to take up and adjudicate the same on merits in accordance with law expeditiously. The appellant/husband is granted three months time to deposit the arrears in terms of this order to the credit of the O.P. Upon such deposit, the respondent/wife is at liberty to withdraw the sum so deposited without furnishing security.

The civil miscellaneous appeal is accordingly disposed of.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR,J

Dr. SHAMEEM AKTHER,J

Date:03.08.2017

GJ