

**HONOURABLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HONOURABLE SMT. JUSTICE T. RAJANI**

FCA.No.54 of 2017

DATED: 02-03-2017

Between:

M. Vinay.

... Appellant

And

P. Kavitha.

... Respondent

COUNSEL FOR THE APPELLANT

: Sri S. Raju
For Sri P.V. Krishanaiah

COUNSEL FOR RESPONDENT

: Sri Nimaggada Revathi



THE COURT MADE THE FOLLOWING:

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

This family court appeal is filed against the order dated 23.02.2016 in I.A.No.441 of 2015 in FCOP.No.63 of 2010 on the file of the Judge, Family Court – cum – IV Additional District Judge, Kurnool.

The appellant has filed the aforementioned OP under Section 13(1)(ia) of Hindu Marriage Act, 1955 read with Section 7 of the Family Courts Act, 1984 for dissolution of his marriage with the respondent. Initially, the OP was decreed *ex parte*. However, at the instance of the respondent, the same was set aside and O.P. was restored to the file. Thereafter, the respondent has filed I.A.No.441 of 2015 for rejection of the petition on the ground that the Family Court, Kurnool had no jurisdiction to entertain the same. This application was returned on the ground that none of the ingredients of Section 19 of the Hindu Marriage Act, 1955 (for short 'the Act') is satisfied.

Under Section 19 of the Act, in order to invoke the jurisdiction of the Court, either the marriage must have been solemnized or the respondent, at the time of presentation of the petition, must be residing or the parties must have last resided together or in case the wife is the petitioner, where she is residing on the date of presentation of the petition, within the local limits of the District Court. In the present case on hand, admittedly, none of the above conditions was satisfied. As regards clause (iv) of Section 19 of the Act, the same is attracted only if, at the time of presentation of the petition, the respondent was residing outside the territories to which the Act extends or has not been heard of as being alive for a period of seven years or more.

It is the specific case of the respondent, with respect to which there is no dispute that she is residing in Chitradurga District, Karnataka State to which the Act extends. Therefore, the Court below has rightly returned the OP for presentation before the proper Court.

In the light of the above facts, we do not find any illegality or jurisdictional error in the order of the Family Court, Kurnool in returning the OP. Hence, the Family Court Appeal is dismissed.

As a sequel to dismissal of the appeal, FCAMP.No.74 of 2017 shall stand dismissed as infructuous.

JUSTICE C.V. NAGARJUNA REDDY

JUSTICE T. RAJANI

Date: 02.03.2017
LSK/DSK

