

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

Civil Revision Petition Nos.4775 and 4846 of 2017

COMMON ORDER:

These revisions arise out of the orders passed by the Family Court, Vijayawada, dismissing two Interlocutory Applications filed by the petitioners herein for receiving their counter after setting aside the earlier order forfeiting their right to file counter.

2. Heard Mr. V.V.N. Narasimham, learned counsel for the petitioners. Mr. V. Surender Reddy, learned counsel takes notice for the 1st respondent in both the revisions. Notice to the 2nd respondent is unnecessary in view of the controversies arising in these revisions.

3. The 1st respondent filed O.P.No.500 of 2015 as against the 2nd respondent herein for custody of two minor children. The 1st respondent is the legally wedded wife of the 2nd respondent.

4. In the main O.P. for custody of children, the 1st respondent also impleaded the petitioners herein as parties. While the petitioners 1 and 2 are husband and wife respectively, the petitioners 3 and 4 are the son and daughter of the petitioners 1 and 2. Serious allegations are made in the main O.P. as against the 4th petitioner involving the fidelity of the 2nd respondent.

5. It appears that despite several opportunities, the petitioners did not file a counter in the main O.P. and in the interlocutory applications. Therefore, the Family Court passed an

order holding that the petitioners had forfeited their right to file counter.

6. Thereafter, the petitioners engaged a different counsel without obtaining no objection and filed applications in I.A.Nos.272 and 275 of 2017 praying for permission to file counter in the interlocutory applications as well as in O.P. Holding that the petitioners were guilty of protracting the proceedings, the Family Court dismissed the applications forcing the petitioner to come up before this Court.

7. It is true that the petitioners failed to avail sufficient opportunities granted to them earlier and also suffered an order forfeiting their right to file counter. But unfortunately, the case on hand is not a civil dispute relating to property. The matter relates to the family tie of the 1st respondent and the 2nd respondent into which the 4th petitioner is alleged to have entered. Therefore, the future life of the 4th petitioner is also intertwined with the fate of the present case. Hence, despite the lethargy on the part of the petitioners on the earlier occasion, the petitioners deserve a chance to file a counter, at least for the sake of the 4th petitioner.

Taking this humane aspect into consideration, the Civil Revision Petitions are allowed, the impugned orders are set aside. The petitioners shall file a counter to the interlocutory applications as well as O.P. on or before 10-10-2017. Thereafter, the Family Court, shall take up the main O.P. itself for disposal

and hand over to dispose it of within a period of two months thereafter.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 22-09-2017

Note: Issue C.C. in two days

B.O./Ksn

