

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SMT JUSTICE T.RAJANI

FAMILY COURT APPEAL No.85 of 2017

Date:22.3.2017

Between:

Kuppili Venkata Giridhar,
S/o K.E.S.N.Patro

..... Appellant

And:

Kuppili Sridevi,
W/o Venkata Giridhar

.....Respondent

Counsel for the appellant: Mr. K.B.Ramanna Dora

Counsel for the respondent: Mr. Aravala Rama Rao

The Court made the following:

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

This Family Court Appeal is filed against order and decree, dated 09.12.2015, in M.O.P.No.6 of 2013 on the file of the learned Judge, Family Court-cum-III Additional District and Sessions Court, Srikakulam, whereby he has decreed the said MOP filed by the respondent-wife against the appellant-husband for restitution of conjugal rights.

'We have heard Mr. K.B.Ramanna Dora, learned counsel for the appellant and Mr. Aravala Rama Rao, learned counsel for the respondent.

It is evident from the record that the appellant except making an allegation that the respondent was frequently talking to her brother-in-law, has not put forth any pleading in his evidence to resist the Petition filed for restitution of conjugal rights. In the absence of convincing reasons by the appellant for not living with the respondent, the Court below was justified in decreeing the said MOP.

Mr. K.B.Ramanna Dora, learned counsel for the appellant, however, pointed out that the observation of the Family Court in the impugned order that neither an application for judicial separation nor for grant of decree for divorce was filed by the appellant is factually incorrect as, his client has filed O.P.No.43 of 2015 in March, 2015 itself and that much thereafter,

MOP.No.6 of 2013 was allowed by the Court below. This submission of the learned counsel for the appellant is not disputed by the learned counsel for the respondent.

Though we find factual inaccuracy in the order of the Court below in respect of the above aspect, still we are not inclined to interfere with the impugned order for the simple reason that as far as MOP.No.6 of 2013 is concerned, the appellant failed to show any justifiable reason for dismissing the said MOP. Since the appellant has filed an independent Petition for grant of decree for divorce, he shall be free to pursue the same. The Court below shall dispose of the said OP without being influenced by any of the observations in the order in MOP.No.6 of 2013, which is the subject matter of this appeal.

Subject to the above observations, the Family Court Appeal is dismissed.

As a sequel to dismissal of the Family Court Appeal, FCAMP.No.125 of 2017 filed by the appellant for interim relief is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.RAJANI

22nd March 2017

DR