

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.R.C. No.3021 of 2015

ORDER:

Impugning the order dated 17.10.2016 passed in M.C. No.178 of 2012 by the learned Judge, Family Court at L.B Nagar, Ranga Reddy District granting maintenance of Rs.8,000/- p.m to the wife and Rs.6,000/- p.m to the eight years old minor child, the M.C respondent—husband, who is computer analyst with B.Tech Qualification in Panyam Cements, maintained the present revision.

2) Heard both sides and perused the material on record. The parties are being referred as arrayed before the trial Court for the sake of convenience.

3) The record discloses that originally the husband filed O.P. No.3 of 2010 for restitution of conjugal rights. After allowing the same, the wife failed to join and after waiting for one year he filed O.P. No.3 of 2011 for grant of divorce and the divorce relief was granted in his favour. Thus, she is admittedly divorced wife of MC respondent and MC 2nd petitioner is the child in their wedlock undisputedly.

4) According to the 1st petitioner-wife, respondent—husband is drawing salary of Rs.30,000/- p.m and having sufficient means to pay maintenance. Whereas it is the contention of the respondent—husband that the petitioner—wife is working as beautician and also anganwadi worker and earning Rs.20,000/- p.m.

5) The evidence of PW.3, who exhibited Ex.P5—salary certificate shows the basic salary of respondent—husband is Rs.1300/- p.m and his gross salary is only of Rs.6,300/- p.m.

The oral evidence of respondent—husband is that he is getting only that amount against the oral evidence of petitioner—wife that he is getting more than Rs.30,000/- p.m. It is in deciding the same, the Judge, Family Court after going through the record, found salary certificate filed by the MC petitioners not exhibited, from its perusal showing, as on 14.08.2014, the respondent—husband has been earning net salary of Rs.20,473/- and the same was discussed by the Judge, Family Court.

6) From a perusal of Section 10 (i) to (iii) of the Family Courts Act, it is very clear that, the family Court may adopt the procedure provided by C.P.C or Cr.P.C or even own procedure irrespective of those procedures available. Once such is the case and from the specific provisions in Sections 14 & 15 of the Family Courts Act, rules of evidence including as to admissibility have no application to the proceedings before it, said salary certificate referred to by the Judge, Family Court can be taken and marked as Ex.C1. Even in the maintenance claim, wife claimed, including from her evidence that the husband was drawing Rs.30,000/- p.m but she did not file any proof as rightly observed by the Judge, Family Court that Ex.P5 exhibited through PW.3 cannot be given credence as a salary certificate of August, 2004, itself shows his net salary by then was Rs.20,473/- p.m and he is a qualified software engineer and is working in the cement company since 2006. By taking into consideration of the same, if his gross salary is taken as Rs.30,000/- p.m, take home salary from that certificate referred to in Ex.P5 as Rs.20,473/- p.m, in the absence of any proof showing that wife is having earnings, for this Court while

sitting in revision, there is nothing to interfere with the impugned order.

7) Accordingly and in the result, the revision is dismissed confirming the impugned order passed by the Judge, Family Court. The revision petitioner—MC respondent is directed to pay all the arrears within four (4) months from the date of receipt of a copy of this order, failing which the respondents herein can execute and enforce.

8) Consequently, pending miscellaneous petitions, if any, shall stand closed.

Dt.23.01.2017
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Dr.JUSTICE B. SIVA SANKARA RAO