

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.2320 OF 2017

ORDER:

This Civil Revision Petition is filed by the petitioner/respondent against the order dated 28.03.2017 in I.A.No.158 of 2017 in I.A.No.179 of 2016 in O.P.No.122 of 2012, wherein the Court below allowed the application filed by the respondent herein under Section 24 of the Hindu Marriage Act read with Section 151 CPC to punish the petitioner as per Rules for recovery of maintenance amount as per this Court order in C.R.P.No.5083 of 2016 or strike off the defence in the divorce O.P.No.122 of 2012 filed by the petitioner or to dismiss the said OP for non-compliance of the order passed in I.A.No.179 of 2016.

Learned counsel for the petitioner submits that initially on 29.11.2016, a bankers cheque for Rs.20,000/- was submitted into Court and the same was returned stating that costs were not paid. He submits that on 20.03.2017, petitioner deposited further amount of Rs.20,000/- by pay order dated 09.03.2017 and Rs.25,000/- each by way pay orders dated 17.03.2017 totaling to Rs.1,30,000/- covering the entire period from the date of I.A.No.179 of 2016 i.e., from 08.03.2017 till April, 2017. He also submits that there is no direction by this Court to deposit the costs and that only Rs.10,000/- per month was directed to be paid in C.R.P No.5083 of 2016 on 21.10.2016. He submits that the amounts were paid from the date of petition in

trial court calculating from 08.03.2016 till April, 2017, as such, the order in C.R.P.No.5083 of 2016 dated 21.10.2016 was duly complied with.

On the other hand, learned counsel for the respondent apart from reiterating the averments in the counter affidavit filed by the respondent submits that there was an order of Hon'ble Supreme Court in Transfer Petition (C) No.223 of 2012, dated 01.10.2012, for disposal of main OP within nine months and since the petitioner has not complied with the order in CRP No.5083 of 2016, respondent filed IA No.158 of 2017. He submits that the petitioner in the first instance has not paid the amount from the date of petition.

In this case, it is to be seen that in pursuant to order in CRP No.5083 of 2016, dated 21.10.2016, the petitioner had immediately deposited an amount of Rs.20,000/- by way of DD on 28.11.2016. Subsequently, the petitioner calculated the amount and DDs for an amount of Rs.1,30,000/- were taken in respect of arrears from 08.03.2016 i.e., from the date of petition till April, 2017 and deposited before the court below vide Memo dated 13.03.2017. The fact of submission of DDs for said amount was not disputed by the learned counsel for the respondent. Learned counsel for the petitioner has brought to my notice that the DDs were deposited through Memo, which were ultimately returned. Learned counsel for the petitioner submits that meanwhile the validity of the two DDs expired and that he will take back the DDs, validity of which expired and produce fresh DDs. Learned counsel for the respondent has also

not disputed about the fact of petitioner filing DDs through Memo before the Court below, but says that there is a delay in submitting DDs.

It is to be seen that ultimately the entire amount by way of DDs have been deposited by the petitioner. The Court below returned DDs holding that costs were not paid, but entire impugned order in CRP No.5083 of 2016 was suspended on payment of Rs.10,000/-, as such, return of DDs on that ground by the court below, is erroneous.

In view of the above facts and circumstances, the impugned order is set aside and the trial court is directed to dispose of the OP No.122 of 2012 as expeditiously as possible, as per the directions of the Hon'ble Supreme Court in Transfer Petition No.223(C) of 2012. The petitioner is permitted to take back both DDs of which validity expired, with a direction to resubmit the same with fresh DDs. On deposit of the amounts by the petitioner towards maintenance, the respondent is permitted to withdraw the same.

Accordingly, the CRP is allowed to the extent indicated above. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed.

A.RAJASHEKER REDDY,J

18-07-2017
kvs

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Date: 18.07.2017

kvs



