

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Smt. Justice T.Rajani
Family Court Appeal No.194 of 2014
Date: 25.04.2017

Between:

Muniamma

... Appellant

and

A.Sreenivasulu

...Respondent

Counsel for the Appellant: Mr.T.S.Anand

Counsel for the respondent: Mr.G.Venkat Reddy
for Mr.K.Rathangapani Reddy

The Court made the following:



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

This Family Court Appeal (FCA) arises out of Order and Decree, dated 08-07-2014, in FCOS.No.2 of 2012 on the file of the Judge, Family Court, Kurnool.

We have heard the learned Counsel for both parties and perused the record.

The petitioner is the widow of one A.Venkateswarlu, a Class- IV employee, who died leaving behind him, the appellant and their three sons including the respondent. The respondent was appointed as a typist under compassionate appointment scheme in the year 1993 in District Medical and Health Office, Kurnool. On the date of his giving evidence in the FCOS, he was working as a Senior Assistant. The appellant has filed the aforementioned suit seeking award of maintenance @ Rs.5,000/- per month from February, 2007 to February, 2010 and also to pay future maintenance @ Rs.5,000/- per month. This was seriously contested by the respondent. He has pleaded that the appellant has several house properties and that apart from getting family pension, she has been earning substantial income from those properties.

The appellant examined herself as PW.1 and got Exs.A.1 to A.10 marked. The respondent examined himself as RW.1 and got Exs.B.1 to B.8 marked.

On appreciation of oral and documentary evidence, the Family Court has rejected the claim of the appellant and dismissed the suit. Feeling aggrieved thereby, the appellant filed the present Appeal.

We have perused the pleadings and the evidence on record. The appellant as PW.1 deposed in her chief examination that she was getting only a sum of Rs.4,739/- towards family pension, which is hardly sufficient to lead normal life, and that she needs atleast Rs.10,000/- for her maintenance, medicines *etc.* She has further deposed that the respondent has been getting salary of more than Rs.26,000/- per month. In her cross-examination, she has denied the suggestion that her husband succeeded to the ancestral property admeasuring Ac.0-34½ cents. She has also denied the suggestion that she was cultivating the said land by raising vegetables and earning Rs.15,000/- to Rs.20,000/- per month. However, she added that after floods, the said property was washed away. She has denied the suggestion that she has four houses. She, however, admitted that House No.62/83-B2 is

in the occupation of one of her sons and that it was not leased out to one Suseelamma on a monthly rent of Rs.1,500/-. She admitted that she has a Kottam (thatched house). She, however, added that it has collapsed. She denied the suggestion that she was getting a rent of Rs.800/- per month from the Kottam. She admitted that she is residing in her own house bearing No.62/42-C7. She denied the suggestion that she has another house bearing No.62/42-CA and been getting a monthly rent of Rs.2,500/- therefrom. She also denied the suggestion that she has another house bearing D.No.46/189-E2 at Budhavarapeta. She admitted that a plot admeasuring Ac.0-05 cents, which is worth Rs.10 lakhs, was gifted to her by her parents towards Pasupu Kumkuma and that she has gifted the same to her younger son in the year 2010. She further deposed that she was getting a pension of Rs.5,000/- per month. She denied the suggestion that her second son is doing real estate business and earning Rs.20,000/-. She has further deposed that the respondent has two sons and that they are studying.

When this Appeal came up for hearing before us on the previous occasion, we have directed the learned Counsel for the appellant to produce the bank statement of the appellant in order to know the exact amount of pension she is getting. Accordingly,

Certificate, dated 19-04-2017, issued by the Assistant Treasury Officer, Divisional Sub-Treasury, Kurnool, is filed. A perusal of the said Certificate shows that presently, the appellant is getting a gross pension of Rs.8,828/- and net pension of Rs.8,738/- per month.

From the tenor of the cross-examination of the appellant, it is quite evident that she possesses sufficient properties, which obviously included Ac.0-34½ cents of agricultural land. This apart, in one of the houses belonging to her, one of her sons has been residing and she owns a thatched house. The appellant, who claims that the pension being paid to her is not sufficient for her maintenance, has gifted a valuable plot belonging to her to one of her sons. On her own admission, the said plot is worth Rs.10 lakhs. This conduct of the appellant appears to be somewhat unusual as, having gifted a valuable plot to one of her sons, she sues the respondent alone for maintenance for the simple reason that he was given employment on compassionate grounds following the death of his father. As per the appellant's evidence, the respondent has two sons and he is getting a monthly salary of Rs.26,000/-. When the appellant is earning nearly Rs.9,000/- through pension and having substantial properties, the respondent cannot be expected to maintain her by spending a part

of his salary, which is required to be spent on his own family comprising himself, his wife and two sons. Based on the deposition of the appellant given as PW.1, we are of the opinion that she is not fair in her approach in suing the respondent alone for maintenance, while leaving out another son to whom she has gifted the valuable plot worth Rs.10 lakhs even as per her own estimate. Similarly, she has left out another son, who is in occupation of house bearing No.62/83-B2.

On a holistic consideration of the evidence on record, we are of the opinion that the appellant is not dependant on her sons for her maintenance and that therefore, the Court below has rightly rejected her claim for maintenance against the respondent.

For the aforementioned reasons, the FCA fails and the same is, accordingly, dismissed.

As a sequel to dismissal of the FCA, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(T.Rajani, J)

Dt: 25th April, 2017
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