

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.585 of 2017

ORDER:

This civil revision petition under Article 227 of the Constitution arises out of the order dated 16.12.2016 passed by the Family Court at L.B.Nagar, Ranga Reddy District, in I.A.No.191 of 2016 in F.C.O.P.No.1244 of 2015. The petitioner herein, being the respondent in the F.C.O.P., filed the said I.A. under Section 19 of the Hindu Marriage Act, 1955, alleging that the Family Court, Ranga Reddy District, had no jurisdiction to try the case and to dismiss the main F.C.O.P.No.1244 of 2015. By the order under revision, the said I.A. was dismissed. Aggrieved thereby, the petitioner filed this revision.

By order 03.02.2017, this Court took note of the fact that a serious issue had been raised by the petitioner with regard to the jurisdiction of the Family Court at Ranga Reddy District to proceed with the matter and accordingly granted interim stay of further proceedings in the said F.C.O.P. C.R.P.M.P.No.2292 of 2017 was filed by Ms.Satyawati, learned counsel for the respondent, the petitioner in F.C.O.P.No.1244 of 2015, to vacate the aforestated order.

Sri T.Sanjay Rao, learned counsel for the petitioner, would contend that the Court below failed to consider the matter properly. He would submit that his client filed a rejoinder to the counter of the respondent herein but, despite the same, the Court below recorded in para 7 of the order that she did not file any rejoinder or deny the contents of the documents. Learned counsel would further submit that written arguments were filed by his client and also the respondent/petitioner but no mention of the same was made by the Court below in the order under revision.

Ms.Satyawati, learned counsel for the respondent/petitioner is unable to rebut this argument.

Perusal of the order under revision reflects that the Court below neither adverted to the written arguments filed by either side nor did it take note of the contents of the rejoinder filed by the petitioner herein. On the other hand, in para 7 of the order, the Court below specifically recorded that no such rejoinder was filed. This clearly demonstrates non-application of mind by the Court below. The Court below is expected to consider the pleadings in their entirety and thereafter adjudicate the I.A. on its merits and in accordance with law. Failure to take note of the pleadings filed by the petitioner herein in the form of a rejoinder would amount to denial of proper opportunity to the petitioner to establish her claim in the I.A.

The order under revision is therefore set aside on this short ground without going into the merits of the matter and I.A.No.191 of 2016 in F.C.O.P.No.1244 of 2015 is remanded to the file of the learned Judge, Family Court at L.B.Nagar, Ranga Reddy District, for consideration afresh after application of mind to the entire material on record and in accordance with law. This exercise shall be completed expeditiously and in the meanwhile, the proceedings in the main F.C.O.P. shall not be taken up.

The civil revision petition is accordingly allowed.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

Date:02.06.2017

GJ

