

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SMT. JUSTICE T.RAJANI

FAMILY COURT APPEAL No.130 of 2017

03.04.2017

Between:

Behara Nageswara Rao

..Appellant

and

Behara Satya Roja

..Respondent

Counsel for the appellant: Mr.R.Siva Sai Swaroop

Counsel for the respondent: Mrs.M.Umadevi, for Mr.G.Ramagopal

The Court made the following:



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

This Family Court Appeal arises out of common order, dated 08.09.2015, in respect of F.C.O.P.No.1290 of 2012 on the file of the Judge, Family Court-cum-V Additional District & Sessions Judge, Visakhapatnam.

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

3. The appellant filed O.P.No.252 of 2011 seeking dissolution of the marriage with the respondent. The respondent, in turn, filed O.P.No.912 of 2013 for restitution of conjugal rights and F.C.O.P.No.1290 of 2012 for grant of maintenance at the rate of Rs.10,000/- per month from the date of the said petition. The Family Court, by common order, dated 08.09.2015, decreed O.P.No.252 of 2011 by dissolving the marriage between the parties, dismissed O.P.No.912 of 2013 and partly decreed F.C.O.P.No.1290 of 2012 by granting maintenance at the rate of Rs.5,000/- per month from the date of the said petition. Feeling aggrieved by the decree in F.C.O.P.No.1290 of 2012, the respondent-husband in the said O.P. filed the present appeal.

4. In support of her plea that the appellant has sufficient means to pay monthly maintenance to her, the respondent has examined herself as R.W.1 and has also adduced Ex.B-5 – a computerized copy of *form* 24-B issued under the Motor Vehicles Act, 1988. She has also pleaded that the appellant owns two vehicles of Scorpio and Vista Ford make and that he has been doing travel business with the said vehicles. In support of this plea, she has filed Ex.B-5 as mentioned hereinbefore. The Family Court, on appreciation of the evidence, held that the respondent was able to prove her plea regarding the appellant owning two vehicles and doing travel business by producing Ex.B-5 issued by the Motor Vehicles Department

revealing that the two vehicles bearing registration Nos.AP 31 TV 0713 and AP 31 G 5434 belong to the appellant. From this fact, the Family Court has presumed and in our view rightly that the appellant is doing travel business. As regards the appellant doing real estate business, the Family Court has rejected the respondent's plea by stating that except the oral evidence, no documentary evidence has been produced in support of her plea. The Family Court has partly allowed the claim of the respondent by awarding maintenance at Rs.5,000/- per month.

5. After hearing the learned counsel for both the parties, we are of the opinion that the Family Court has properly appreciated the evidence on record and has fixed a very reasonable quantum of maintenance at the rate of Rs.5,000/- per month. Therefore, we do not find any reason to interfere with the order under appeal.

6. At the hearing, the learned counsel for the appellant has requested for granting a reasonable time for payment of arrears of maintenance amount.

7. The appellant is, accordingly, permitted to deposit the arrears of maintenance amount within a period of two months from today. Subject to this facility, the Family Court Appeal is dismissed.

8. As a sequel to dismissal of the appeal, F.C.A.M.P.No.176 of 2017 filed by the appellant for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

T.RAJANI, J

03rd April, 2017
GHN

