

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.2526 of 2017

ORDER:

Heard both sides at length and perused the grounds urged in the revision and the impugned order of the lower Court in I.A.No.47 of 2017, which is an application under Order VIII Rule 1-A CPC to receive the documents.

The Court dismissed the application after contest. Undisputedly the traits of the adjective law of Indian Evidence Act in strict sense have no application to the proceedings in matrimonial matter, more particularly, before the Family Court from the very wording of Section 14 of the Family Courts Act (for short 'the Act'). Leave apart, the Family Court can adopt its own procedure as per Section 10(3) of the Act though as far as possible the CPC that is applicable on the procedural traits for the proceedings before the Family Court as if a Civil Court and equally the Cr.P.C. for proceedings before the Family Court in the maintenance matter as if a Criminal Court. Once such is the case, if the Family Court not chosen to adopt its own procedure, leave about the admissibility and relevancy not so strictly that could be followed in documentary evidence from the provisions referred supra. Once CPC provisions are applicable for the matrimonial disputes as per Section 10(1) of the Act for the late filing of the documents, if it is by the petitioner/plaintiff under Order VII Rule 14 CPC and for the respondent/defendant under Order VIII Rule 1-A CPC, however Clause (4) of Order VII Rule 14 CPC, the opposite party in the cross examination any of the plaintiff witnesses and Clause (4) of Order VIII Rule 1-A CPC to

the opposite party in cross examination of defendant witnesses without even earlier filing of the documents invoke the respective provisions supra, the document can be confronted to a witness. Once it is the course to be adopted, the filing of petition for the plaintiff as contemplated by Order VII Rule 14 and for the defendant as contemplated by Order VIII Rule 1-A CPC have no application to follow. Leave apart if admitted the document can be exhibited by filing with memo and if not admitted by filing with memo to the record of the Court. As it is not even specifically stated that if not admitted the document cannot be received by the Court, but for where admitted.

Having regard to the above, merely because respondent in confronting PW.1 with the document not chosen to file with memo before the Court though otherwise before confronting, a list to be given to the other side of the documents not by petition and the late filing even otherwise not required to be invoked when invoked, the trial Court could not have been dismissed.

Accordingly and in the result, the Civil Revision Petition is allowed by setting aside the order of the lower Court with a direction to receive the document subject to costs of Rs.2,000/- payable by the revision petitioner to the revision respondent, since paid and recorded.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 28.11.2017
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