

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION 5249 OF 2011

AND

WRIT PETITION No.35853 OF 2017

COMMON ORDER:

Since the present writ petition is connected to the civil revision petition, both the cases are taken up together and are being disposed of by this common order. The parties are referred to in this order as per their status in the writ petition.

The petitioner, who is the respondent in the civil revision petition, is the divorced wife of the third respondent, whose marriage was performed on 05.08.1981. The petitioner is the second wife. The third respondent is having three children, i.e., two sons and one daughter through his first marriage. The petitioner gave birth to one son. The relationship between the petitioner and the third respondent strained, which resulted in filing H.M.O.P.No.86 of 1997 on the file of the Senior Civil Judge, Anakapalle, by the third respondent against the petitioner herein seeking divorce. The petitioner was not living with the third respondent from 17.05.1994. The said petition was dismissed by the Court below. Against the same, the third respondent preferred an Appeal. This Court set aside the order of dismissal of H.M.O.P.No.86 of 1997 passed by the Court below and allowed C.M.A.No.1589 of 2004, by order dated 08.02.2006 granting an amount of Rs.3,00,000/- (Rupees three lakhs only) towards permanent alimony. The operative portion of the said order reads as follows:-

"Accordingly, we hold that the respondent is entitled to permanent alimony of Rs.3.00 Lakhs, out of which Rs.1.00 Lakh (Rupees one lakh only) shall be paid within three months from today and the balance within three months thereafter, that is, the total amount has to be paid within a period of six months from today. The same has to be paid by way of depositing the same into the Savings Bank Account of the respondent, by the petitioner. The Savings Bank Account number of the respondent

has to be furnished by the learned counsel for the respondent to the learned counsel for the petitioner."

It appears that the petitioner filed E.P.No.84 of 2009. In the said E.P., by docket order dated 05.08.2010, the Principal Senior Civil Judge at Anakapalle, issued warrant of salary attachment for an amount of Rs.3,00,000/- (Rupees three lakhs only). Against the said docket order, the third respondent filed the present civil revision petition contending that though the actual amount due is Rs.2,00,000/- (Rupees two lakhs only), the Court below erroneously issued warrant of salary attachment for an amount of Rs.3,00,000/- (Rupees three lakhs only).

Learned counsel for the third respondent submits that an amount of Rs.1,40,000/- (Rupees one lakh and forty thousand only) was directly paid to the petitioner through Bank, whereas out of the balance amount of Rs.1,60,000/- (Rupees one lakh and sixth thousand only), an amount of Rs.1,42,671/- (Rupees one lakh forty two thousand and six hundred and seventy one only) was deposited by virtue of garnishee order to the credit of the E.P.No.84 of 2009 on the file of the Court of the Principal Senior Civil Judge, Anakapalle. The third respondent is yet to pay an amount of Rs.17,329/- (Rupees seventeen thousand and three hundred and twenty nine only) and he is ready to deposit the said amount, but the present writ petition is filed when the respondents 1 and 2 are going to disburse the retirement benefits to the third respondent seeking a direction not to disburse the retirement benefits for non-payment of the amount due to the petitioner. Now it came out that only an amount of Rs.17,329/- (Rupees seventeen thousand and three hundred and twenty nine only) is due and payable to the petitioner and the learned counsel for the third respondent undertook to pay the said amount to the credit of E.P.No.84 of 2009, pending on the file of the Principal Senior Civil Judge, Anakapalle, by the date of next hearing.

In the circumstances, no order needs to be passed in the writ petition and the writ petition is accordingly closed.

It is open to the petitioner to withdraw the amount lying to the credit of E.P.No.84 of 2009 on the file of the Principal Senior Civil Judge, Anakapalle, by filing appropriate application. If the petitioner receives the entire amount of Rs.3,00,000/- (Rupees three lakhs only) by giving due credit to the amount already received , the said E.P., can be closed.

In view of the above order, no further orders are necessary in the civil revision petition.

The civil revision petition and the writ petition are accordingly closed. Consequently, miscellaneous petitions, if any pending, in both the cases, shall stand closed. There shall be no order as to costs.

27.11.2017
pln

A.RAMALINGESWARA RAO, J

