

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE M.S.K.JAISWAL

C.M.A.No.639 of 2017

Date:13.7.2017

Between.

Daggubati Ramesh @ Rampaul,
S/o Rathaiah

..... Appellant

And.

Daggubati Sirisha @ Kolla Sirisha

.....Respondent

Counsel for the appellant: Mr. V.S.K.Rama Rao

The Court made the following:



JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This Civil Miscellaneous Appeal is filed, with a delay of 19 days, against order, dated 28.02.2017, in HMOP.No.791 of 2016 on the file of the learned XIV Additional District Judge-cum-Additional Family Judge, Vijayawada. However, since the appeal is numbered, we are inclined to dispose of the same at the admission stage.

A perusal of the order under appeal shows that the Family Court has decreed the afore-motioned HMOP filed by the respondent for restitution of conjugal rights after setting the appellant *ex parte*. Though technically, the appellant may be entitled to file an appeal against the *ex parte* decree, we do not find any reason for him to have straightaway filed this appeal instead of filing an application before the Family Court for setting aside the *ex parte* decree.

In this view of the matter, while declining to entertain this appeal, liberty is given to the appellant to move the Family Court for setting aside the *ex parte* decree and contest the afore-mentioned HMOP on merits.

Subject to the liberty given to the appellant as above, the Civil Miscellaneous Appeal is dismissed.

As a sequel to dismissal of the appeal, CMAMP.No.1052 of 2017 is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE M.S.K.JAISWAL

05th July 2017

DR

