

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Smt. Justice T.Rajani

Family Court Appeal No.297 of 2015

Date: 14.03.2017

Between:

R.Suresh Kumar

... Appellant

and

S.Prameela

...Respondent

Counsel for the Appellant: Mr.Yallabandi Ramatirtha

Counsel for the respondent: Mr.Maheswara Rao Kunchem

The Court made the following:



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

This Family Court Appeal (FCA) arises out of Order and Decree, dated 13.07.2015, in FCOP.No.1 of 2013 on the file of the Judge, Family Court -cum- V Additional District Judge, Tirupathi.

We have heard Mr.Yallabandi Ramatirtha, learned Counsel for the appellant, and Mr.Maheswara Rao Kunchem, learned Counsel for the respondent.

The appellant has filed the aforementioned OP for dissolution of his marriage with the respondent under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (for short 'the Act'). Pending the OP, the respondent has filed an application for interim maintenance. The Family Court has awarded interim maintenance @ Rs.1,500/- per month in favour of the respondent. After full-fledged trial, the Family Court, while dismissing the OP, however, directed payment of maintenance @ Rs.3,000/- per month. Feeling aggrieved by this order, the petitioner in the FCOP filed this Appeal.

At the outset, the learned Counsel for the appellant submitted that on a reconsideration, his client does not intend

to press for dissolution of his marriage and that if the respondent is willing to join him, he is prepared to take her back with him. He has further submitted that as regards the maintenance awarded by the Family Court while dismissing the OP, the same is not sustainable.

At the hearing, both the parties are personally present. The respondent submitted that she has no interest in joining the appellant as he is unable to discharge his obligations as a husband. She has further submitted that she is pursuing her B.Tech degree and that she will choose her own legal remedies at her option.

As regards the decree for maintenance, we find merit in the submission of the learned Counsel for the appellant. Under Section 24 of the Act, the Court is conferred with the jurisdiction to grant maintenance *pendente lite*. This provision, however, does not empower the Court to pass a decree for maintenance for the period subsequent to the termination of the proceedings before it unlike Section 25 thereof, which empowers the Court to pass a decree granting permanent alimony or maintenance on an application made to it.

The learned Counsel for the appellant submitted, which is not disputed by the learned Counsel for the respondent, that except filing an application for interim maintenance, the respondent has not made any application under Section 25 of the Act seeking maintenance post termination of the proceedings.

In this view of the matter, the decree of the Family Court to the extent it has awarded maintenance @ Rs.3,000/- is set aside. It is, however, made clear that the order of the Family Court granting interim maintenance during the pendency of the FCOP remains unaffected by this order and if the appellant is liable to pay arrears of such interim maintenance, the respondent is entitled to recover the same from him. It is also made clear that this order will not preclude the respondent from initiating substantive proceedings seeking appropriate reliefs including maintenance.

As regards the Order and Decree of the Family Court rejecting the claim of the appellant for dissolution of his marriage with the respondent, in view of the submission of the learned Counsel for the appellant that his client does not intend to press for decree of divorce, the FCA to this extent is

dismissed confirming the Order and Decree of the Family Court.

Subject to the observations made herein above, the FCA is allowed to the extent indicated above.

As a sequel, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(T.Rajani, J)

Dt: 14th March, 2017
lur

