

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

THE HON'BLE SMT. JUSTICE T.RAJANI

FAMILY COURT APPEAL No.33 of 2017

15.02.2017

Between:

Dola Srivani

..Appellant

and

Dola Durga Venkata Sunil

..Respondent

Counsel for the appellant: Mr.N.Siva Reddy

Counsel for the respondent: Mr.S.S.Prakash

The Court made the following:



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

This Family Court Appeal arises out of the order and decree, in F.C.O.P.No.781 of 2011 on the file of the Judge, Additional Family Court, Visakhapatnam, whereby he has dissolved the marriage between the appellant and the respondent at the instance of the latter.

2. Mr.S.S.Prakash, learned counsel for the respondent, has submitted that after the expiry of the limitation period for filing the appeal, his client has contracted second marriage and that therefore, the appeal has become infructuous. In support of his submission, the learned counsel has referred to and relied upon the judgment of the Supreme Court in *Sujata Uday Patil vs. Uday Madhukar Patil*¹.

3. On 08.02.2017, the case was adjourned to enable the learned counsel for the appellant to verify both the factual and legal aspects referred to above. Today, at the hearing, the learned counsel did not dispute both the above aspects. In *Sujata Uday Patil* (supra), the Supreme Court, *inter alia*, held as under:

“10. Matrimonial disputes have to be decided by courts in a pragmatic manner keeping in view the ground realities. For this purpose a host of factors have to be taken into consideration and the most important being whether the marriage can be saved and the husband and wife can live together happily and maintain a proper atmosphere at home for the upbringing of their offsprings. This the court has to decide in the fact and circumstances of each case and it is not possible to lay down any fixed standards or even guidelines.

11. In the case in hand it is an established fact that the respondent has married again and has a child from the second wife. In such circumstances even if the decree for divorce granted by the learned District Judge which has been affirmed by the High Court is set aside, as prayed by the appellant herein, no useful purpose would be served. The appellant cannot possibly live with the husband in such a scenario nor it will be conducive to the upbringing of her son.....”

¹(2006)13 SCC 272

4. In the light of the settled legal position as above and having regard to the admitted fact that after the expiry of the limitation period for filing the appeal, the respondent has contracted second marriage, the appellant is not entitled to any relief in this appeal.

5. The learned counsel for the appellant has submitted that his client is entitled to claim permanent alimony for herself and maintenance to her minor daughter. Since these issues do not arise in this appeal, they cannot be adjudicated herein. However, the appellant is left free to avail appropriate remedies for claiming permanent alimony and maintenance. In such event, the competent Court shall decide such claims in accordance with law.

6. Subject to the liberty given to the appellant as above, the Family Court Appeal is dismissed.

7. As a sequel to dismissal of the F.C.A., F.C.A.M.P.No.45 of 2017 filed by the appellant for interim relief shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J

T.RAJANI, J

15th February, 2017
GHN