

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.6397 of 2017

ORDER :

This revision is filed by the petitioner/husband, aggrieved by the order dated 16.10.2017 in I.A.No.655 of 2017 in O.P.No.1391 of 2015 passed by the Additional Family Court, City Civil Court, Hyderabad.

2. Heard both sides and perused the grounds urged in the revision and the impugned order.

3. The parties are governed by the provisions of the Hindu Marriage Act, 1955 amended from time to time not in dispute. Section 19 of the Hindu Marriage Act (for short 'the Act') reads as follows:

“19. Court to which petition shall be presented :_ Every petition under this Act shall be presented to the District Court within the local limits of whose ordinary original civil jurisdiction.

(i) the marriage was solemnised, or

(ii) the respondent at the time of the presentation of the petition, resides, or

(iii) the parties to the marriage last resided together, or

(iiia) in case the wife is the petitioner, where she is residing on the date of presentation of the petition; or

(iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.”

4. By virtue of the amendment in 2003 supra, incorporating clauses iii(a) and (iv) in Section 19, leave about clause (iv) is a relief for either of the spouse, clause iii(a) confined as a beneficial provision within the purview of Article 15(3) of the Constitution of India, of conferring jurisdiction to maintain a matrimonial dispute by a wife, from where she resides.

5. However, the fact remains from the very divorce petition filed by the wife as O.P.No.1391 of 2015 before the Family Court, Hyderabad, now pending before the Judge, Additional Family Court, City Civil Court Hyderabad that her address is shown as CZECH Colony, Sanathnagar, Hyderabad. The address of the husband is shown as Kukatpally, Ranga Reddy District, is not within the jurisdiction of the Family Court, Hyderabad. So far as the residence of the wife is concerned, the order of the lower Court particularly from para-9 is crystal clear that it is also not within the jurisdiction of the Family Court, Hyderabad. Once such is the case, it is the Court within Ranga Reddy District that got jurisdiction. At this stage, the Counsel for the wife (revision respondent) submits that police station jurisdiction for

Sanathnagar is situated at Hyderabad. In fact, in the impugned order, at para-8, given the table of locality, ward wise, there from at para-9 it is categorically observed by the trial Court that the wife's residence as petitioner to the divorce petition is at Flat No.314, ENDEECOs Country, CZECH Colony, Sannathnagar, Hyderabad and that does not fall within the territorial jurisdiction of the Family Court, Hyderabad. It is, at this stage, observed that the registration of the marriage is solemnized at Registrar Office, S.R.Nagar, Hyderabad and thereby, it gives jurisdiction to the Family Court at Hyderabad.

6. In fact, from reading of Section 19 of the Act supra, even with Section 8 of the Act speaks of register of the marriage does not by tantamount to performance of marriage there and otherwise place of registration of marriage is not conferred jurisdiction from the very wording of Section 19 of the Act. Thus, the Miyapur Additional Family Court of Ranga Reddy District got jurisdiction. Further, the D.V.C. and Section 498-A I.P.C. cases are also stated pending within the local jurisdiction of the Magistrate Court at Miyapur and once such is the case the parties can seek convenient dates to attend all the matters even in different Courts of same place on one day or the like.

7. Having regard to the above, the Civil Revision Petition is allowed by setting aside the dismissal order of the lower Court by holding that the Additional Family Court, City Civil Court Hyderabad, has no jurisdiction within the meaning of Section 19 of the Hindu Marriage Act to entertain the divorce petition filed by the wife against the husband and by directing to return the petition by filing time of taking return for presentation before the Judge, Family Court, Miyapur, by virtue of this order.

8. Consequently, miscellaneous petitions pending, if any, shall stand dismissed. No costs.

Date: 21-11-2017
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Dr. B. SIVA SANKARA RAO, J

