

THE HON'BLE SRI JUSTICE P.KESHA RAO

CRIMINAL REVISION CASE No.147 OF 2018

ORDER:

This Criminal Revision Case is filed questioning the orders passed in M.C.No.1 of 2016 dated 27.11.2017 on the file of the Court of the Judge, Family Court-cum-VIII Additional Sessions Judge, Mahabubnagar, awarding a sum of Rs.5,000/- per month towards maintenance to the 1st respondent herein from the date of filing of the petition.

Heard the learned counsel for the petitioner as well as the learned counsel appearing for the 1st respondent.

The facts, in brief, are that the first respondent's marriage with the petitioner was performed in the year 1968. One month immediately after the marriage, she deserted the petitioner. Thereupon, the parents of the petitioner performed the second marriage to the petitioner. Out of the wedlock, he was blessed with four sons. Thereafter the first respondent again joined the conjugal society of the petitioner. She was also blessed with a son. In the year 1995, a family settlement dated 01.07.1995 has taken place. In the said settlement, the first respondent and her son have been given a landed property to an extent of Ac.3.00 gts. and a residential house. In the year 2009, the first respondent and her son sold away the house property. Under the said settlement deed, it is specifically mentioned that the first respondent has to be maintained by her son. However, in the year 2016, the first respondent filed M.C.No.1 of 2016 against the petitioner claiming a sum of Rs.8,000/- per month towards maintenance. The petitioner filed a counter opposing the prayer sought in the

maintenance case. After trial, the above said M.C. was allowed in part by orders dated 27.11.2017 directing the petitioner to pay a sum of Rs.5,000/- per month. Aggrieved by the same, the present Criminal Revision Case is filed.

The learned counsel appearing for the petitioner would contend that at present, the age of the petitioner is 88 years and is bed-ridden. In fact, in the year 1995 itself, in the family settlement arrived at between the parties, the first respondent and her son have been given Ac.3.00 gts. of land and a residential house, vide family settlement deed dated 01.07.1995, which is filed before this Court. Therefore, the petitioner is not liable to pay any maintenance amount to the first respondent.

Per contra, the learned counsel appearing for the first respondent contended that the first respondent is entitled to maintenance from the petitioner since she is the legally wedded wife. She is not able to maintain herself. The petitioner has contracted second marriage and blessed with four sons through his second wife and is living separately. The petitioner is having agricultural lands at Tatikonda Village, Mahabubnagar District apart from a mango garden. The petitioner has driven out the first respondent six months prior to filing of the M.C. and therefore, she filed the maintenance case.

Having heard both the counsel and after perusal of the material on record, it is revealed that the first respondent is the legally wedded wife of the petitioner and out of the wedlock, they were blessed with a son. As the first respondent deserted the petitioner one month after the marriage, his parents performed

second marriage. Through his second wife, he is blessed with four sons and subsequently, the first respondent again joined the conjugal society of the petitioner. Since the disputes arose once again, the first respondent was driven out of the house six months prior to filing of the M.C. It is relevant to mention that in the year 1995, under a family settlement deed dated 01.07.1995, the first respondent and her son have been given Ac.3.00 guntas of land and a residential house. Now, the said document has been filed before this Court. Apart from the same, the documents under which, the house was allotted to the son of the first respondent are also now filed. From the perusal of the impugned order, it is revealed that the said documents are not filed and the same are not taken into consideration while awarding the maintenance. In these circumstances, this Court deems it appropriate to set aside the impugned order and remand the matter back to the learned Family Judge to consider the matter afresh in the light of the documents now produced before this Court.

Accordingly, the Criminal Revision Case is allowed setting aside the orders passed in M.C.No.1 of 2016, dated 27.11.2017 remanding the matter to the Judge, Family Court-cum-VIII Additional Sessions Judge, Mahabubnagar. It is needless to observe that both the parties are at liberty to file the relevant documents and on such filing, the learned Family Judge is directed to consider the same and pass appropriate orders as per law.

Pending miscellaneous petitions, if any, shall stand closed.

P.KESHAHA RAO,J

03rd AUGUST 2018.
Tsr