

THE HON'BLE SRI JUSTICE SANJAY KUMAR
CIVIL REVISION PETITION NO.1593 OF 2018

ORDER

This civil revision petition under Article 227 of the Constitution is directed against the order dated 09.01.2018 passed by the learned Judge, Family Court at L.B.Nagar, Ranga Reddy District, in I.A.No.952 of 2017 in F.C.O.P.No.773 of 2017.

The petitioner before this Court is the husband. He filed the subject OP under Section 12(1)(a) of the Hindu Marriage Act, 1955 seeking a declaration that the marriage solemnized between him and the respondent wife on 27.11.2015 was null and void. He filed I.A.No.952 of 2017 in the said OP under Rule 33 of the Civil Rules of Practice, 1980 to permit him to be represented by his father. By the order under revision, the Family Court dismissed the I.A.

By order dated 16.03.2018, this Court granted interim stay of further proceedings in the O.P. being of the opinion that the question as to whether the Family Court was correct in refusing the application filed under Rule 33 of the Civil Rules of Practice, 1980 required examination.

Heard Sri V.Venkata Subrahmanyam, learned counsel for the petitioner husband, and Sri Srinivasa Rao Pappu, learned counsel for the respondent wife.

It is not in dispute that the petitioner husband is a doctor by profession and he is residing in the United States of America for the past several years. That is the reason why he sought to be represented by his father before the Family Court in the subject OP. The only ground on which the Family Court rejected his application was that the deed of power of

attorney did not disclose his attestation of the signature of the father who was appointed as his Agent thereby.

In the light of the law laid down by several Courts (See NATUBHAI CHOTABHAI PATEL V/s. PATNAM SHAKUNTALA¹, K.SANTHANAM V/s. S.KAVITHA², BENGAL JUTE MILLS V/s. JEWRAJ HEERALAL³, NARAYANAN NAIR V/s. JOHN KURIEN⁴, IYAKKU MATHOO V/s. JULIUS⁵, SUBBIAH PILLAI alias S.S.M. SUBRAMANIA PILLAI V/s. SANKARAPANDIAM PILLAI⁶, M.PARTHASARTHI V/s. THE STATE OF A.P. REPRESENTED BY SECRETARY, EDUCATION DEPARTMENT, HYDERABAD⁷, JANAB SYED KAZIM SAHAB V/s. JANAB SAYEED BAKARAM SAHAB⁸, SARJUPRASAD V/s. BADRI PRASAD⁹ and NETRAM V/s. BHAGWAN¹⁰) holding to the effect that Rules 32 and 33 of the Civil Rules of Practice would not be mandatory in terms of non-suiting a party who is sought to be represented by an Agent, the Family Court ought not to have adopted a hyper-technical approach. When the petitioner husband is sought to be represented by his own father, the Family Court could have verified that status and allowed the father to represent the petitioner husband.

The civil revision petition is accordingly allowed directing the Family Court to verify and confirm that the person claiming to be the Agent of the petitioner husband is, in fact, his own father and permit him to represent the petitioner husband for such limited purposes that an Agent can do so in a

¹ 2012 (4) ALD 553 (DB) = 2013 (4) ALT 24 (DB)

² 2010 SCC OnLine MADRAS 6009 = (2011) 3 MLJ 34

³ AIR 1943 CAL 13

⁴ 1988 (1) K.L.T. 673

⁵ AIR 1962 KER 19

⁶ AIR 1948 MAD 369

⁷ AIR 1971 AP 49

⁸ 1990 (1) An. W. R. 256

⁹ AIR 1939 NAG 242

¹⁰ AIR 1941 NAG 159

matter of this nature. Interim order dated 16.03.2018 shall stand vacated.

Pending miscellaneous petitions shall stand closed in the light of this order.

No order as to costs.

15th JUNE, 2018

Sv

SANJAY KUMAR, J

