

THE HON'BLE SRI JUSTICE SANJAY KUMAR
CIVIL REVISION PETITION NO.2008 OF 2018
O R D E R

FCOP No.596 of 2015 on the file of the learned XV Additional District Judge-cum-XV Metropolitan Sessions Judge-cum-II Additional Family Judge, Kukatpally at Ranga Reddy District, was preferred by the respondent-wife seeking dissolution of her marriage with the petitioner-husband by grant of a decree of divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (*for brevity*, the Act of 1955').

The respondent-wife filed I.A.No.1304 of 2017 in the OP under Order 6 Rule 17 CPC seeking to amend her petition and introduce additional prayers for grant of permanent alimony of Rs.1.00 crore; return of the articles presented at the time of marriage mentioned in Schedule I, failing which to pass a decree for a sum of Rs.30,00,000/-; and to direct the petitioner-husband to reimburse Rs.50,00,000/- towards the expenses incurred by her parents in connection with their marriage. She also sought amendment of the pleadings in the petition by insertion of three paragraphs therein to support the additional prayers.

By docket order dated 17.03.2018, the Family Court took note of the fact that no counter had been filed by the petitioner-husband and there was no representation on his behalf since 08.11.2017. As the case was coming up for trial, the Family Court opined that the petition deserved consideration and allowed the I.A. Aggrieved thereby, the petitioner-husband filed this revision under Article 227 of the Constitution.

Heard Sri Subramanyam Daraboina, learned counsel for the petitioner-husband, and Sri J.Prabhakar, learned counsel for the respondent-wife.

It is not in dispute that the petitioner-husband did not choose to oppose the amendment petition filed by the respondent-wife. According to her, she had failed to seek all the necessary and incidental reliefs while praying for a divorce decree and therefore, she should be permitted to amend the petition and her prayer therein to cover all aspects.

Sri J.Prabhakar, learned counsel, would point out that Section 25 of the Act of 1955 states to the effect that any Court exercising jurisdiction under the Act of 1955 may, at the time of passing any decree or any time subsequent thereto, on application made to it by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum that may seem to the Court to be just. Learned counsel would therefore state that as the power of the Court to grant permanent alimony under Section 25 of the Act of 1955 would remain even after passing a decree of divorce, the petitioner-husband could have no complaint if the respondent-wife sought such relief by way of an amendment in her divorce petition itself.

Learned counsel would also rely upon Section 27 of the Act of 1955 which deals with disposal of property and assert that the Family Court would be entitled in any proceeding under the Act of 1955 to make such provision in the decree as it deems just and proper with respect to any property presented at or about the time of marriage, which may belong jointly to both the husband and the wife. Learned counsel would assert that in the light of this statutory provision, the prayer of the respondent-wife in connection with the articles allegedly presented to the petitioner-husband at the time of marriage cannot be said to be improper or excessive.

This Court finds merit in the submissions of the learned counsel.

Given the statutory milieu of the Act of 1955, the contention of Sri Subramanyam Daraboina, learned counsel, that the amendments would practically change the nature of the O.P. cannot be countenanced. Section 25 of the Act of 1955 empowers the Court to grant permanent alimony even after a decree of divorce is passed if an application is made in that regard. Therefore, consideration of a plea for permanent alimony in the O.P. itself cannot be said to be alien to a petition for divorce. Similarly, Section 27 of the Act of 1955 empowers the Court to make provision in the decree passed in any proceeding under the Act of 1955 with regard to property presented at the time of marriage. Therefore, this prayer also cannot be said to be alien to the divorce O.P.

This Court therefore finds no grounds to interfere with the order passed by the Family Court permitting such amendments. Needless to state, the petitioner-husband would be entitled to file a fresh counter to the amended O.P. in the light of the amendments made therein. The Family Court shall therefore grant an opportunity to the petitioner-husband to file his additional counter addressing such amendments and thereafter proceed in the matter in accordance with law.

Subject to this observation, the civil revision petition is dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

12th APRIL, 2018

PGS