

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION NOs.3764 AND 2748 OF 2017

COMMON ORDER:

CRP.No.3764 of 2017 is filed against the order dated 29.12.2016 passed in IA.No.343 of 2016 in FCOP.No.1941 of 2015 on the file of the IV Additional District Judge-cum-I Additional Family Judge, Ranga Reddy District at L.B.Nagar.

The petitioner before the lower Court is the wife of the respondent therein. She filed an application for interim maintenance of Rs.20,000/- per month and Rs.50,000/- towards litigation expenses. In the affidavit, she has stated that her husband, the respondent in the said IA, was earning Rs.2,00,000/- per month and despite earning such a handsome amount, he has not been paying any amount towards maintenance. Learned counsel for the petitioner states that they have not given an opportunity to file a counter or evidence in the lower Court. However, record shows that the respondent-husband's contention was also considered before the order was passed.

Looking at the impugned order, it is apparent that the same was passed without any documentary evidence about the proof of the income or the disposable income of the husband. It is the contention of the learned counsel for the petitioner in this Court that the petitioner-husband is a computer mechanic and he hardly earns a few thousand per month. Learned counsel has also filed a statement of bank account with the material papers which shows that the maximum balance standing to the credit of the petitioner-husband's account for a period of almost two years is around Rs.2,000/-. Therefore, it is his contention that his client cannot

afford to pay any maintenance whatsoever. On the other hand, learned counsel for the respondent-wife urges that the petitioner-husband is not a computer mechanic but, in fact, selling computers and earning a handsome amount.

After hearing both the parties, this Court is of the opinion that the application was disposed of by the lower Court in a summary manner. The Court below should have looked into the means available with the husband to pay the maintenance. Ultimately, the object of providing maintenance is to enable the wife to live a life of dignity along with the child. Therefore, the Court below should have gone into the issue of disposable income of the husband before deciding the IA. Hence, this Court is of the opinion that the matter should be remanded to the lower Court for deciding maintenance. After giving an opportunity to both the parties, the lower Court is directed to dispose of the matter within one month. Both the learned counsel also agree that they would co-operate for the disposal of the application within the said period of one month. Noting the said concession and the fact that it is wife and minor child seeking maintenance, the lower Court is directed to dispose of the matter within thirty (30) days from the date of receipt of a copy of this order without granting any further time.

With these observations, CRP.No.3764 of 2017 is disposed of.

As far as CRP.No.2748 of 2017 is concerned, it is filed against the order dated 17.02.2017 in SR.No.335 of 2017 filed for review of the order, which is the subject matter of CRP.No.3764 of 2017. The said review application was dismissed. In view of the

fact that CRP.No.3764 of 2017 is allowed and remanded, CRP.No.2748 of 2017 does not survive for consideration.

Hence, CRP.No.2748 of 2017 is closed.

There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(D.V.S.S.SOMAYAJULU, J)

3rd January 2018

NOTE: Issue CC by Monday
B/O
RRB

