

THE HON' BLE SRI JUSTICE C. V. NAGARJUNA REDDY
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL MISCELLANEOUS APPEAL No. 199 of 2008

Date: 18th January, 2018

Between:

Kallagunta Adilakshmi

... Appellant

And

Ullamgunta Siva Sankara Rao

... Respondent

COUNSEL FOR APPELLANT : Sri V. Venugopala Rao

COUNSEL FOR RESPONDENT : None

THE COURT MADE THE FOLLOWING:

JUDGMENT: (per Hon'ble Sri Justice C.V. Nagarjuna Reddy)

This appeal is filed by the unsuccessful petitioner in H.M.O.P.No.38 of 2006 on the file of the Additional Senior Civil Judge, Tenali, who, by his order dated 26.11.2007, declined to pass a decree of dissolution of her marriage with the respondent.

2. Heard Mr. V.V.N. Narasimham, learned counsel representing Mr. V. Venugopal Rao. Though served, learned counsel for the respondent has not entered appearance.

3. The marriage between the appellant and respondent took place on 08.05.1999. She has filed the aforementioned O.P. under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (for short, 'the Act') for dissolution of her marriage. In support of her plea of cruelty by her husband, the appellant has examined herself as PW.1 and also examined PWs.2 and 3. The respondent himself examined as RW.1 and also examined RW.2. He has also got Exs.B1 to B5 marked on his side.

4. In its order, the lower Court has thoroughly discussed the evidence on record. It has observed that PW.2 being a neighbour, there is no possibility of her presence during midnights when the acts of cruelty were allegedly done by the respondent against the appellant. Similarly, the Court below has disbelieved the evidence of PW.3 by

terming him as an interested witness as he used to sell milk to the mother of the appellant twice everyday, and so there was a little chance of the said witness witnessing the alleged acts of cruelty committed by the respondent towards the appellant. In our opinion, the burden of proof being heavily on the appellant, and he has failed to discharge the same. The Court below has, therefore, rightly rejected her allegation of cruelty against the respondent.

5. On a reconsideration of the entire material on record, including the evidence, we are of the opinion that the conclusions formed by the Court below are fortified by the material on record and, therefore, we are not inclined to interfere with the order and decree under appeal.

6. Accordingly, the appeal is dismissed.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

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