

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.3344 of 2018

ORDER:

This Civil Revision Petition is filed, under Article 227 of the Constitution of India, assailing the order, dated 12.04.2018, passed in I.A.No.363 of 2018 in F.C.O.P.No.167 of 2016 on the file of Court of Judge, Family Court-cum-V Additional District Judge, Tirupati.

2. Heard learned counsel for both parties.

3. A perusal of the record reveals that the respondents filed F.C.O.P.No.167 of 2016 on the file of Court of Judge, Family Court-cum-V Additional District Judge, Tirupati, against the petitioner claiming maintenance. During pendency of F.C.O.P., the petitioner filed I.A.No.363 of 2018, under Order VIII Rule 1 (A) and Section 151 C.P.C, seeking leave of the Court to condone the delay and receive the documents. The respondents filed counter *inter alia* contending that the documents sought to be received are no way concerned with the *lis* involved in the main petition and therefore, the petition is liable to be dismissed. The trial Court, after affording reasonable opportunity to both the parties, dismissed the petition.

4. The point that arises for consideration in this revision is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

5. The trial Court dismissed the petition on the ground that the parties to the proceedings have to file the documents at the time of

filing of the petition or counter, as the case may be. As per the impugned order, the parties are not entitled to file the petition to receive documents after filing of plaint and written statement, as the case may be, under any circumstances.

6. The trial Court has not considered the prejudice likely to be caused to the petitioner if the documents in question are not received. Even if the documents are received, no prejudice will be caused to the respondents. If the impugned order is allowed to stand, certainly it would amount to miscarriage of justice. Taking into consideration the facts and circumstances of the case, I am of the considered view that it is a fit case to set aside the impugned order.

7. In the result, the Civil Revision Petition is allowed setting aside the order, dated 12.04.2018 passed in I.A.No.363 of 2018. Consequently I.A.No.363 of 2018 in F.C.O.P.No.167 of 2016 on the file of Court of Judge, Family Court-cum-V Additional District Judge, Tirupati, is allowed to receive the documents in question subject to proof and relevancy.

Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed. There shall be no order as to costs.

T.SUNIL CHOWDARY, J

DECEMBER 24, 2018

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Date:24.12.2018