

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

C.R.P.No.4978 of 2017

ORDER

This civil revision petition under Article 227 of the Constitution of India is filed questioning the legality, propriety or regularity of the order dated 24.06.2017 passed in I.A.No.265 of 2017 in FCOP No.47 of 2016 by the Judge, Family Court, Warangal, in a petition filed under Order 1 Rule 10 of CPC, to permit petitioner/respondent No.1 to implead the proposed party, by name, Akhila, as respondent No.3 in the said FCOP.

2. The second respondent herein, Adepu Praveen Kumar, filed a petition under Section 13(1)(i) of Hindu Marriage Act, 1955, for dissolution of marriage between him and Rama Anusha, the first respondent herein, on various grounds. One among those grounds is that the first respondent was living in adultery with one Kondaparthi Ajay Kumar, the second respondent in the main OP. The first respondent filed I.A.No.265 of 2017 under Order 1 Rule 10 of CPC to implead the proposed party, Akhila, as respondent No.3 in the main OP, alleging that her husband had attributed false illicit relationship to her with the second respondent with dishonest intention to cover up all the mischievous and brutal acts committed by him against her. She alleged that her husband had developed illicit relationship with other ladies, more particularly with one Akhila, proposed party, and therefore, she is also a proper and necessary party to the proceedings and requested to implead her as respondent No.3.

3. The petitioner/proposed party filed counter denying the illicit relationship attributed to her with the second respondent herein besides raising other contentions. The Judge, Family Court, after hearing both the parties, allowed the petition holding that the proposed party is also necessary and proper party to the main OP for effective adjudication of the dispute between the parties positively and finally.

4. Aggrieved by the said order, the present revision is filed by the proposed party on the ground that she is neither proper nor necessary party to the petition filed by the second respondent herein for dissolution of marriage on the ground of adultery. But the trial Court did not consider her contention in proper perspective and committed error in allowing the petition and requested to set aside the order passed by the Court below.

5. During hearing, learned counsel for petitioner Sri B. Suryanarayana, has reiterated the contentions raised in the petition.

6 Though notice was served, none appears for respondents.

7 Undisputedly, the second respondent herein i.e., Adepu Praveen Kumar, represented by its GPA holder Adepu Prabhakar, filed a petition under Section 13(1)(i) of Hindu Marriage Act, 1955, against his wife Rama Anusha and Kondaparthi Ajay Kumar alleging that she is continuously living in adultery with the second respondent. But, unfortunately, the first respondent also attributed

adultery to the second respondent with the present petitioner, Akhila, who is unmarried.

8. When the petition is filed for dissolution of marriage on the ground of continuously living in adultery by the first respondent with the second respondent in the main petition, the adulterer, Kondaparty Ajay Kumar, is already on record as second respondent. In case, the first respondent filed a petition under Section 13(1)(i) of the Act, against Adepu Praveen Kumar on the ground of his living in adultery continuously with Akhila, who is a third party to the main petition, being an adulterer, is proper and necessary party. But in the present case, the first respondent did not file any petition for dissolution of marriage. In a petition filed by the husband, the petitioner herein, who is proposed party, with whom the husband allegedly developed illicit contact, is not a proper and necessary party. Since the adultery was attributed to the first respondent Rama Anusha with the second respondent in the main petition, the petitioner is neither proper nor necessary party to the petition. Since the petition was filed by the second respondent herein against the first respondent for dissolution of marriage by granting a decree of divorce on the ground of the first respondent living in adultery with the third respondent herein, the petitioner cannot be impleaded as proper and necessary party and therefore, the order passed by the Court below is erroneous on the face of the record. Consequently, the order passed by the Judge, Family Court, is liable to be set aside, holding that the petitioner is not a proper or necessary party

to the petition filed by the second respondent herein against the first and third respondents on the ground of adultery.

9. In the result, the Civil Revision Petition is allowed, setting aside order dated 24.06.2017 passed in I.A.No.265 of 2017 in FCOP No.47 of 2016 by the Judge, Family Court, Warangal. No order as to costs.

M. SATYANARAYANA MURTHY, J

22nd October, 2018

sj

