

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CrI.R.C.Nos.1118 & 824 of 2016

COMMON ORDER:

Criminal Revision Case No.1118 of 2016 is arising out of the common judgment, dated 18.02.2016 passed in DVC Appeal No.118 of 2014 & Criminal AppealNo.35 of 2015 by the Chairman, MACT-cum-I Additional District Judge, Nalgonda. The DVC Appeal No.118 of 2014 arose out of DVC No.5 of 2013.

2. The Criminal Revision Case No.824 of 2016 is arising out of order dated 25.01.2016 passed in M.C. No.8 of 2013 by the Judge, Family Court, Nalgonda, granting maintenance of Rs.4,000/- to the wife/respondent No.1 herein under Section 125 of Cr.P.C., as against her claim of Rs.15,000/-. She filed M.C.No.08 of 2013 under Section 125 of Cr.P.C. before the Family Court for grant of maintenance of Rs.15,000/- per month for her food, clothes, medical expenditure and other necessities. The contention of the respondent No.1/wife of petitioner is that the petitioner/husband was an agriculturist and businessman and on horticulture and he is earning Rs.5,00,000/- p.a

3. Heard the arguments of the learned counsel for petitioner and respondents.

4. The learned counsel for petitioner contended that the order passed in DVC No.5 of 2013 directing the respondents No.1 to 3 to pay of Rs.5,000/- per month towards maintenance,

Rs.3,000/- towards rent for separate accommodation, and also to pay compensation of Rs.6 lakhs to the petitioner as excessive. It is submitted that the petitioners have already paid Rs.4,50,000/- towards medical expenses, as such, the said amount has to be deducted from the compensation of Rs.6 lakhs awarded to the respondent.

5. The husband has filed his counter in the said M.C.No.8 of 2013 denying the allegations therein. he stated that no panchayat was conducted by the mediators in respect of the disputes between them. It is alleged that she had not shown any interest to lead marital life with her husband that she was interested to take divorce. As such, the elders have decided that her husband has to pay Rs.5 lakhs as permanent alimony. It is further contended that; the respondent No.1 with malafide intention, had influenced the elders and obtained an agreement on Non-Judicial stamp paper worth of Rs.100/- with recitals that the amounts were paid to his wife towards her medical expenses.

6. The contention of the petitioner is that he has settled the matters before the elders by paying Rs.4,50,000/- towards permanent alimony, and it was not paid towards medical expenditure. It is further submitted that the amount of Rs.4,50,000/- may be deducted from the compensation amount of Rs.6,00,000/- granted by the trial Court.

7. The learned counsel for the respondent No.1 contended that she has claimed compensation under two heads, one under the head of medical expenses, and the other under the head of compensation for the damage caused to her eye. The amount of Rs.4,50,000/- was granted towards medical expenses, and an amount of Rs.6 lakhs was granted towards compensation. Therefore, the amount of Rs.4,50,000/- need not be deducted from the compensation of Rs.6 lakhs. It is submitted by the respondent No.1, that the petitioner has beat the respondent, due to which, she suffered injury her left eye.

8. Therefore, it is contended that the respondent No.1/wife is entitled for compensation of Rs.6 lakhs towards the injury suffered by her. Since the amount of Rs.4,50,000/- was already paid towards the medical expenditure, that amount need not be deducted from the compensation amount. There are two different heads under which the respondent No.1 made a claim and the Court has also awarded accordingly.

9. In view of the reasons therein the Court below awarded Rs.4,50,000/- towards medical expenditure, basing on the medical bills and that amount need not be deducted from the compensation of Rs.6 lakhs. Therefore, the wife/respondent No.1 is entitled for maintenance of Rs.5,000/- per month, and compensation of Rs.6 lakhs.

10. The learned counsel for revision petitioner submits that the property of the revision petitioner was brought for

attachment. The property was sold in an auction. The sale was stayed. The issue of sale certificate is pending due to the stay orders passed by this Court. the 3rd party purchaser of the property brought for auction has filed a revision petition to vacate the stay order passed by this Court, so that the sale certificate would be issued to him. It is brought to the notice of this Court that the property was sold for Rs.14 lakhs.

11. I.A.No.1 of 2018 is filed by a third party for impleading him as respondent No.3 and the same was allowed by this Court vide order dated 27.09.2018.

12. Brief contents of the affidavit filed by the petitioner in I.A.No.1 of 2018 are that the CrI.R.C.No.1118 of 2016 was filed under Section 397 and 401 Cr.P.C seeking to set aside the order passed on 18.02.2016 in CrI.A.No.35 of 2015 on the file of Judge, Family Court-cum-Additional District & Sessions Judge, Nalgonda, confirming the orders passed in DVC No.5 of 2013 dated 8.7.2014 on the file of Judicial Magistrate of First Class, (Special Mobile Court) at Nalgonda.

13. The respondent No.1/wife has filed DVC No.5 of 2013 before the Court of Judicial Magistrate of First Class and CrI.M.P.No.2933 of 2014 for grant of maintenance, rent, compensation and costs of the petitioner. The petitioner in I.A.No.1 of 2018 impleaded as respondent No.3 in the said petition. The DVC No.5 of 2013 was allowed and the husband and his father were directed to pay an amount of Rs.6,00,000/-

towards compensation for the injury, medical torture, emotional stress and costs of Rs.3,000/-.

14. The respondents in DVC have not paid the compensation amount. The learned Judicial Magistrate of First Class directed to conduct public auction to sell the land of the respondents No.1 to 3 under Revenue Recovery Act for realisation of the amounts due under DVC No.5 of 2013.

15. In pursuance of the direction of the learned Magistrate, publication was made in the District Gazette, vide Gazette No.1203 dated 31.10.2015 and a notice was published vide No.B/9831/2015 dated 16.11.2015, and accordingly, public auction was conducted on 16.12.2015 for realisation of Rs.6 lakhs and Rs.3,000/- towards compensation and costs. The land admeasuring 8 guntas situated in Sy No.725/AA was brought to sale. One Sri Julakanti Saidi Reddy, Nalgonda participated in the auction by depositing 15% of the amount of Rs.1 lakh through D.D dated 15.12.2015. The auction purchaser has failed to deposit balance amount and a notice was issued on 11.5.2016 for depositing of balance amount of Rs.7,25,000/- . As there was no reply from him auction was cancelled and the amount of Rs.1 lakh deposited by him was forfeited to the Government under Revenue Recovery Act. After cancellation of the auction, a notice was issued for conducting fresh public auction on 10.6.2016. Accordingly the auction was conducted for one acre land located in Sy No.603 at Mallaiahgudem village of Nalgonda District and the petitioner,

who is proposed respondent No.3 became the highest bidder, and purchased the land for Rs.14,20,000/-. He has deposited the amount before Tahsildar Nalgonda vide two demand drafts dated 14.6.2016 and 10.8.2016 respectively. Pursuant to the sale, the certificate was issued to him on 7.9.2016. Thereafter the Tahasildar, and Revenue Divisional Officer have not pursued further. The petitioner came to know about filing of the revision case No.1118 of 2016 before this Court vide docket order dated 25.04.2016 and grant of interim stay. The respondent No.1 has furnished bank guarantee on 8.8.2016 and on that the learned Judicial Magistrate of First Class vide letter dated 15.9.2016 directed to stop all further proceedings of issuance of the attachment warrant in pursuance of CrI.M.P.No.2993 of 2014 in DVC No.5 of 2013. The petitioner being the successful bidder in the auction sought to be impleaded as respondent No.3 in CrI.R.C and also for vacating interim orders passed in CrI.R.C. No.1118 of 2016 vide order dated 27.9.2018, this Court allowed petition for impleadment of the petitioner as respondent No.3 in the above CrI.R.C.No.1118 of 2016 as well as in CrI.R.C.M.P.No.1641 of 2016.

16. The main contention of the learned counsel for 3rd respondent is that he being an auction purchaser who has deposited the entire auction amount of Rs.14,20,000/- and obtained sale certificate in his favour, sought for vacating the interim order for taking further procedure of sale.

17. In view of the submissions made by learned counsel for the petitioner and the respondent that they do not have any objection for confirmation of the sale, since the entire amount is said to have been deposited by him in the Court, the stay is liable to be vacated. Hence, the stay granted by this Court vide order dated 25.04.2016 is hereby vacated.

18. The learned counsel for revision petitioner submits that the petitioner has no objection for realisation of the compensation amount of Rs.6 lakhs towards sale proceeds deposited in the Court.

19. The contention of the revision petitioner is that the amount of Rs.4,50,000/- was paid towards medical expenditure as such the same has to be deducted towards compensation amount. The wife claimed Rs.5 lakhs towards medical expenditure and Rs.6 lakhs towards compensation for the injury sustained to her eye. There is no dispute about depositing of Rs.4,50,000/- towards medical expenditure. This Court is of the considered view that the petitioner has to pay compensation of Rs.6 lakhs apart from the medical expenditure of Rs.4,50,000/-. Therefore, the revision petitioner is liable to pay compensation of Rs.6 lakhs.

20. Accordingly, these two Criminal Revision Cases are dismissed.

21. The property of the petitioners No.1 to 3 was sold in auction and an amount of Rs.14,20,000/- was deposited before

the trial Court. In view of the dismissal of both these revisions, the 1st respondent in CrI.R.C.No.824 of 2016 may proceed to recover the compensation amount awarded to her in accordance with law.

Miscellaneous Petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J.

Date : 26 -12-2018.

Gvl/Hsd/Msr

