

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

F.C.A.No.216 of 2013

Date: 22.02.2018

Between :

T. Rama Nagabushana Rao

... Appellant

And

Smt. T. Lakshmi and others

... Respondents

COUNSEL FOR APPELLANT : Sri P.N Murthy

COUNSEL FOR RESPONDENTS : Sri K. Ravi



THE COURT MADE THE FOLLOWING:

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

This Family Court Appeal is filed by the respondent in FCOP.No.759 of 2009 on the file of the Judge, Family Court, Hyderabad, aggrieved by the order and decree dated 22.12.2012 passed therein, whereby it has awarded Rs.8,000/- each in favour of the respondents herein towards monthly maintenance.

Heard Sri P.N. Murthy, learned counsel for the appellant and Sri K. Ravi, learned counsel for the respondents.

Respondent No.1 is the wife of the appellant. Their marital life ran into rough weather, as a result of which they are living separately. Respondent No.2 is the daughter and respondent No.3 is the son of the appellant and respondent No.1. Admittedly, they are living with respondent No.1 and the appellant has not been looking after their necessities. In this back-ground of facts, the respondents have filed the afore-mentioned FCOP each claiming maintenance @ Rs.10,000/- per month. The Family Court, on appreciation of oral and documentary evidence, by the aforesaid order and decree, awarded Rs.8,000/- each towards monthly maintenance to the respondents. Aggrieved by the same, the appellant has filed the present appeal.

Sri P.N. Murthy, learned counsel for the appellant submitted that though his client was working as a Chemistry Lecturer in

Corporate Colleges when his family life was running smoothly, because of unreasonable conduct of respondent No.1 in causing disturbance to the appellant by going to his work place, he lost employment and, therefore, during the pendency of the FCOP as well as now, the appellant remained unemployed.

Whereas Sri K. Ravi, learned counsel for the respondents submitted that the appellant is still working as a Chemistry Lecturer and earning Rs.1,00,000/- per month.

A perusal of the material on record shows that except alleging that the appellant is working as a Chemistry Lecturer and earning Rs.1,00,000/- per month, no evidence in proof thereof has been filed.

The Family Court in the order under appeal took note of the fact that the appellant has worked as a Lecturer in Chemistry in different Corporate Colleges, such as Triveni College, S.R. Nagar, Hyderabad; Narayana Junior College, Sri Chaitanya Junior College, Rishi College and Gowtham College. However, no finding was recorded by it that during the pendency of the FCOP, the appellant was working and drawing a sum of Rs.1,00,000/- per month towards salary.

The proposition that the husband has the responsibility to maintain his wife and children is well settled. While there may not

be evidence to show that the appellant is presently employed, it is, however, undisputed that he has the potential to work and earn, being a Post-Graduate in Chemistry, which subject has huge demand in the Corporate Colleges. Therefore, the appellant cannot abdicate his responsibility towards the respondents.

All the respondents are present and this Court came to know through interaction with respondent Nos.2 and 3 that they are pursuing their Engineering courses. While on the one hand, there is no specific evidence that the appellant is presently working and drawing a salary of Rs.1,00,000/- per month, he cannot, however, be allowed to avoid the responsibility of maintaining the respondents. Therefore, in these facts and circumstances of the case, we are inclined to modify the order of the Family Court to balance the interest of both the parties. Accordingly, the sum of Rs.8,000/- per month granted by the Family Court towards monthly maintenance to each of the respondents is reduced to Rs.5,000/- (Rupees five thousand only) per month each. However, if, in future, the respondents are able to collect evidence of the appellant being employed and earning, they are at liberty to file a fresh application for further maintenance by approaching the competent Court.

Subject to the liberty given as above to the respondents, the order under appeal of the Family Court is modified by reducing the

monthly maintenance from Rs.8,000/- to Rs.5,000/- (Rupees five thousand only) each in favour of the respondents.

The Family Court Appeal is accordingly partly allowed to the extent indicated above. No order as to costs.

Consequently, FCA.MP.No.92 of 2014 shall stand disposed of accordingly.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

22.02.2018.
Msr



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

F.C.A.No.216 of 2013



22.02.2018

Msr