

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 4628 of 2018

ORDER:

1) Assailing the order dated 24.07.2018, passed in I.A.No.1298 of 2018 in O.P.No.123 of 2015 on the file of the Senior Civil Judge, Ramachandrapuram, wherein an application petition filed by the petitioner under order XVI Rules 6 and 78 seeking issuance of summons to 1) Branch Manager, State Bank of India, Ramachandrapuram; (2) Branch Manager, ICICI Bank, Ramachandrapuram; (3) Branch Manager, Malabar Gold and Diamonds, Temple Street, Kakinada and (4) Branch Manager, Malabar Gold and Diamonds, near Gokavaram Bus Stand, Rajamahendravaram, for production of relevant documents and to give evidence, was dismissed, the present Civil Revision Petition came to be filed under Article 227 of the Constitution of India.

2) The facts in issue are as under:-

The petitioner and respondent are wife and husband. The petitioner filed O.P.No.123 of 2015 seeking dissolution of his marriage with the respondent held on 14.04.2012, on the ground of cruelty. It is stated in the affidavit filed in

support of the petition that the petitioner came to know that by using ATM cards pertaining to the joint account of petitioner and respondent, the respondent withdrew amounts and purchased gold. Thereafter, he filed O.S.No.76 of 2017 against the respondent, her father and her brother for recovery of amounts. In order to prove his case, he requested the court to summon the said witnesses along with the documents which are in their care and custody.

3) After considering the material on record, the trial Court rejected the said application. Aggrieved by the same, the present Civil Revision Petition came to be filed.

4) Learned counsel for the petitioner mainly submits that the respondent had withdrawn huge amount from the joint account and purchased gold from Malabar Gold. He further submits that since the transactions were referred in the plaint itself summoning of those witnesses is very much necessary.

5) Learned counsel for the respondent would submit that the amounts were withdrawn from the joint account held by the petitioner and respondent. From the joint account, either of the party can withdraw the amount. He further

submits that there is no material to show that the respondent had purchased gold with the amount withdrawn from the joint account.

6) As seen from the record, admittedly, the petitioner and the respondent have joint bank account and the respondent withdrew the money from the joint account on various occasions. Since both the petitioner and respondent are having joint bank account, both of them are having equal power to operate the said accounts, it can be established by obtaining the statement of account from the bank by paying necessary charges.

7) Insofar as issuance of summons to branch managers of Malabar Gold and Diamonds is concerned, there is no material on record to show that the respondent had purchased gold from Malabar Gold and Diamonds. Apart from that there is no reference to purchase of gold by the respondent in the plaint, as such summoning the Manager and others from Malabar Gold and Diamonds may not be necessary.

8) For the reasons stated above, I see no grounds to interfere with the impugned order. Accordingly, the Civil Revision Petition is dismissed.

9) There shall be no order as to costs. As a sequel to it, miscellaneous petitions pending if any in this Civil Revision Petition shall stand dismissed.

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JUSTICE C. PRAVEEN KUMAR

12.10.2018

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