

THE HON'BLE SRI JUSTICE SANJAY KUMAR
CIVIL REVISION PETITION NO.4890 OF 2018

ORDER

The petitioner-husband is aggrieved by the order dated 05.07.2018 passed by the learned IV Additional District Judge-cum-I Additional Family Court Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.573 of 2018 in F.C.O.P.No.1885 of 2017. The said O.P. was filed under Section 13-B of the Hindu Marriage Act, 1955 (*for brevity*, 'the Act of 1955') seeking dissolution of the marriage between the petitioner-husband and the respondent-wife by a decree of divorce by mutual consent. The petitioner-husband filed the subject I.A. under Section 65A & B of the Indian Evidence Act, 1872 to examine him by way of Internet Video Link, i.e., by Skype, etc. By the order under revision, the Family Court dismissed the I.A. Aggrieved thereby, he filed the present revision.

Though the matter was listed on 14.09.2018 and was not taken up for hearing, Maddela Gayathri, the respondent-wife, was present in person and produced her Aadhaar Card in proof of her identity, when a mention was made by Sri N.Satyanarayana, learned counsel representing Sri Pooserla Vikram, learned counsel for the petitioner-husband, when the Court was about to rise. She categorically stated that she has no objection to the I.A. being ordered and the petitioner-husband being examined by way of Skype or Videoconferencing. She further asserted that the couple were firm in their resolve to get their marriage dissolved by way of a decree of divorce by mutual consent.

It is not in dispute that the statutory waiting period of six months is long over as over a year has passed since the institution of the divorce O.P. In such circumstances, it is not reasonable on the part of the Family

Court to expect the petitioner-husband, who is working in the United States of America, to come all the way to attend the proceedings in the O.P. so that an attempt can be made for reconciliation. It may be noted that Section 13-B of the Act of 1955 does not postulate any such measures being undertaken as a condition precedent without fail before the dissolution is effected. When the parties, being educated, know their mind and have bided the statutory waiting period, it is not necessary that the Family Court should go through the motions of holding a reconciliation process pedantically. In terms of the law laid down by the Supreme Court in *SANTHINI V/ s. VIJAYA VENKETESH*¹, the Family Court is vested with discretion, after a settlement fails and a joint application is filed or both the parties file their respective consent memorandum for hearing of the case through videoconferencing, to allow such prayer. Though the Family Court relied on certain other paragraphs in the aforesaid judgment, it failed to take note of the fact that the case on hand was one relating to dissolution of the marriage by way of a decree of divorce by mutual consent and therefore, it was not necessary for it to insist upon a personal hearing by requiring the actual physical presence of the petitioner-husband. In the circumstances prevalent as on date, it would be difficult for the petitioner-husband, who is stationed in the United States of America, to put himself through the inconvenience and expense of coming to India just to attend to the so-called reconciliation process. This was therefore not a fit case for the Family Court to insist upon the parties going through the motions. It is no doubt true that reconciliation should normally be attempted by the Family Court before dissolution of the marriage but the same cannot be applied as a standard yardstick without

¹ (2018) 1 SCC 1

reference to the individual facts of the case. In the case on hand, it is fairly clear that the parties are firm in their intent to have their marriage dissolved.

The civil revision petition is accordingly allowed. The I Additional Family Court, Ranga Reddy District at L.B.Nagar, shall take up F.C.O.P.No.1885 of 2017 expeditiously and proceed in the matter by resorting to examination of the petitioner-husband through Videoconferencing or Skype and pass necessary further orders in the O.P. in accordance with law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

17th SEPTEMBER, 2018

Sv

SANJAY KUMAR, J

