

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.4516 OF 2017

ORDER:

This revision petition is filed under Article 227 of the Constitution of India challenging the order dated 27.06.2017 in I.A.No.465 of 2016 in FCOP No.144 of 2016 passed by the Judge, Family Court, L.B.Nagar, Ranga Reddy District, awarding maintenance pendenti-lite @ Rs.20,000/- per moth during pendency of FCOP filed by the respondent under Section 13(i)(b) of the Hindu Marriage Act for dissolution of Marriage by granting decree of divorce.

The respondent filed petition under Section 24 of the Hindu Marriage Act for grant of maintenance pendenti-lite alleging that the petitioner herein is working as software engineer in USA besides possessing moveable and immoveable properties receiving income from the properties and whereas the respondent did not possess any independent source of income sufficient for her livelihood and sought for maintenance pendenti-lite, under Section 24 of the Hindu Marriage Act during pendency of O.P.

The respondent filed counter denying material allegations mainly on the ground that she lived only one month with the petitioner and returned to India from US and lodged a report with the police for the offence punishable under Section 498-A IPC and though the petitioner is working as software engineer in US, he was removed from service in view of changed policy of Government in U.S. and that maintaining himself by obtaining loans from near and dear and thereby, the petitioner has no capacity to pay

Rs.50,000/- per month as maintenance pendent-lite and prayed for dismissal of the petition.

Upon hearing argument of both counsel, the Court below awarded maintenance @ Rs.20,000/- per month during pendency of FCOP. The main ground urged before this Court by learned counsel for the petitioner is that the petitioner is not an employee in USA in view of change of Government policies recently and apart from that the Court awarded maintenance at exorbitant rate without taking into consideration of the independent source of income of the respondent to maintain herself and committed an error.

The respondent supported the impugned order in all respects while contending that the petitioner is still working as software engineer and earning Rs.4 lakhs.

As seen from the impugned order, both parties without producing any piece of paper to establish the income that the petitioner is getting Rs.4 lakhs while working as software engineer in USA or at least that he is working in a particular company. Moreover, the admission of the petitioner that he was working as software engineer in US and he was removed from service, which did not disclose the details like date of removal etc. In the absence of any details, the contention of the respondent that the petitioner is working as software engineer in US is liable to be accepted and accordingly, the Court below accepted that the petitioner is working as software engineer.

As the petitioner is working as software engineer at USA, the Court can presume the income of the software engineer in US.

Therefore, taking into consideration of the approximate income of a software engineer in US, awarded maintenance at Rs.20,000/-. But there is absolutely no proof though the respondent contended that the petitioner is earning Rs.4 lakhs. Moreover, the respondent is residing at L.B.Nagar, Ranga Reddy District with her parents.

Taking into consideration of the facts and circumstances of the case and in the absence of any material to establish the salary of the petitioner, it is appropriate to reduce the maintenance pendent-lite to Rs.15,000/- per month from Rs.20,000/-, which is sufficient to the standard of life, which her husband is leading.

Accordingly, the revision petition is disposed of reducing the maintenance amount from Rs.20,000/- to Rs.15,000/- per month. The Court below is directed to dispose of the petition at the earliest in any event not later than six months from the date of receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY,J

09.02.2018
kvrn