

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.5496 of 2018

ORDER:

The challenge in this CRP at the instance of petitioner/respondent is the order dated 04.06.2018 in I.A.No.163/2015 in HMOP No.32/2014 whereunder the learned Senior Civil Judge, at Kandukur, granted interim maintenance of Rs.6,000/- per month besides Rs.10,000/- towards legal expenses to the 1st respondent herein.

2) Though notice to 1st respondent was served but there is no representation on her behalf. Hence heard learned counsel for petitioner.

3) Learned counsel for petitioner would submit that when HMOP No.32/2014 is filed by the petitioner seeking divorce against 1st respondent on the ground of adultery, the Trial Court ought not to have granted her interim maintenance and legal expenses. Added to it, the 1st respondent made a false claim for her children as if they are with her and ultimately, she filed a memo stating that respondents 2 and 3 are residing with the petitioner. Sofaras means of the petitioner are concerned, learned counsel would submit that the petitioner is eking out his livelihood by attending Purohitham and he is having no other income fetching sources and he has to fend his paralysed father and old aged mother besides his two daughters. On all these submissions, learned counsel prayed to set aside the impugned order.

4) As can be seen from the record, the petitioner filed HMOP for granting divorce against 1st respondent on the allegation of her unchastity. However, in an enquiry under Section 24 of Hindu Marriage Act, the allegation of unchastity cannot be decided as rightly observed by the Trial Court. Admittedly, the 1st respondent is the legally wedded wife of the petitioner and she is not a job holder and not having any income. In that view of the matter, the Trial Court was right in awarding interim maintenance and legal expenses. However, the quantum is concerned, in the considered view of this Court, it is on high side having regard to the uncontroverted facts. The impugned order would show that though the 1st respondent claimed interim maintenance for herself and her two minor daughters who are school going children, however, during enquiry she filed a memo stating that the daughters are presently residing with her husband i.e, petitioner. Therefore, as rightly submitted by learned counsel for petitioner, the burden of maintenance of the two daughters is on the petitioner. It is also not in dispute that the aged parents of the petitioner are with him. His father is afflicted with paralysis and mother is suffering with old age ailments. It is also an admitted fact that the petitioner is a Purohith by occupation and is living in Kotapadu Agraharam village. Having regard to nature of his occupation which spreads in a small village like Kotapadu Agraharam and other surrounding villages, it is difficult to believe that he would earn Rs.50,000/- per month, as alleged by the 1st respondent. The 1st respondent claimed that the petitioner is having shopping complex at Kotapadu Agraharam village and getting Rs.20,000/- p.m towards rents and

he is also having a building rented to Andhra Bank and getting rent of Rs.15,000/- per month but no evidence is produced to that effect. However, the petitioner admitted that he is having only 1/5th share in the shopping complex and getting Rs.1,000/- p.m towards his share. Having regard to the fact that the shopping complex is in a village like Kotapadu Agraharam, it is difficult to assume that the shopping complex would fetch any fabulous rent. So having regard to the family background and the number of persons the petitioner has to support with his meager earnings, this Court considers it apposite to reduce the quantum of interim maintenance and the legal expenses awarded by the Trial Court.

5) In the result, this Civil Revision Petition is partly allowed and the interim maintenance granted by the Trial Court is reduced to Rs.4,000/- per month payable by the petitioner herein to the 1st respondent herein on or before 5th of every succeeding month from the date of petition till the date of disposal of HMOP No.32/2014. Besides, the petitioner has to pay legal expenses of Rs.6,000/- to 1st respondent to enable her to prosecute the HMOP. No order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 14.11.2018

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