

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION Nos.6797 and 7584 OF 2017

COMMON ORDER:

These Civil revision petitions are filed under Article 227 of the Constitution of India, seeking to set-aside the orders dated 26.07.2017 passed in two unnumbered I.A Nos. of 2017 in F.C.M.O.P. No.45 of 2016 (GR.No.1653/ dt.27.06.2017) by the Judge, Family Court-cum-III ADJ, Srikakulam respectively.

2) Heard learned counsel for the petitioner and learned counsel for the respondent.

3) Learned counsel for the petitioner submits that O.P is pertaining to the year 2016 and the respondent herein is the husband who filed the O.P for dissolution of his marriage dated 09.03.2012 under Section 13 (1) (ia) of Hindu Marriage Act. The respondent has adduced his evidence and examined PWs1 and 2 on his behalf but they could not be cross examined by petitioner herein.

4) It is appropriate to refer the affidavits of the wife, wherein she stated that she has filed a petition I.A. No.373 of 2017 to reopen the matter to cross examine the witnesses i.e., PW1 and PW2 and it was allowed providing an opportunity to cross examine the said witnesses. She has also filed another application in I.A. No.375 of 2017 to recall PWs.1 and 2, due to wrong posting of the matter by her counsel, she could not comply the orders of the Court and therefore, on 21.06.2017, the Court below has closed

the evidence of PWs.1 and 2 recording as cross nil and the matter was posted to 23.06.2017 for the evidence petitioner herein.

5) In view of the reasons mentioned in the affidavits, the petitioner being the wife could not cross examine the witnesses i.e., PWs.1 and 2 in a petition filed by the husband seeking divorce. The only reason mentioned in the affidavits was that due to wrong posting of the matter by her counsel, she could not comply the order of the Court in I.A. No.373 of 2017.

6) In the light of the averments made in the affidavits and in view of the fact that the petitioner being a wife is entitled for an opportunity to cross examine the said witnesses, both the revision petitions are allowed setting aside the orders dated 27.06.2017 passed in two unnumbered I.A Nos. of 2017 (GR No.1653/ dt.27.06.2017) in F.C.M.O.P. No.45 of 2016 by the Judge, Family Court-cum-III Additional District Judge, Srikakulam District.

7) However, as some inconvenience is caused to the respondent herein, the petitioner herein is directed to pay costs of Rs.1,000/- (Rupees one thousand only) to the respondent herein in each application, within one week from the date of receipt of copy of this order and get ready for cross examination of the witnesses i.e., PWs.1 and 2.

8) Miscellaneous Petitions, pending if any, in these Revision Petitions shall stand closed. No order as to costs.

GUDISEVA SHYAM PRASAD, J

09.04.2018
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