

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.5920 OF 2017

ORDER:

This civil revision petition is filed by the respondent, under Article 227 of the Constitution of India, assailing the order dated 12.9.2017 passed in I.A.No.831 of 2017 in O.P.No.505 of 2014 on the file of the XIV Additional District Court-cum-Additional Family Court, Vijayawada.

2. Heard the learned counsel for both the parties. During the course of hearing, both the counsel submitted that O.P.No.505 of 2014 was transferred from file of the XIV Additional District Court-cum-Additional Family Court, Vijayawada to the file of Family Court, Khammam and renumbered as O.P.No.65 of 2015.

3. The respondent filed the O.P., against the petitioner under Section 13 of the Hindu Marriage Act, for dissolution of the marriage between them. During the course of trial, respondent filed chief-examination affidavit as P.W.1. Even after giving an opportunity, the petitioner did not choose to cross-examine P.W.1; therefore, the trial Court closed the evidence of P.W.1. Thereafter, the petitioner filed I.A.No.831 of 2015 under Order XVIII Rule 17 and Section 151 of CPC to recall P.W.1 for the purpose of cross-examination and by the impugned order, the I.A., was dismissed. Hence, the civil revision petition.

4. A perusal of the record reveals that for one reason or the other, the petitioner did not choose to cross-examine P.W.1, who is none other than her husband. The very purpose of cross-

examination of witness is to elicit the truth. P.W.1 is the main witness in the O.P. If no opportunity is given to the petitioner to cross-examine P.W.1, it may not be possible for her to substantiate her stand. On the other hand, even if one more opportunity is given to the petitioner, the same may not cause any prejudice to the respondent. While deciding the petitions of this nature, the approach of the Court shall be pragmatic but not pedantic. The trial Court has not considered the importance of cross-examination and dismissed the petition.

5. Taking into consideration the facts and circumstances of the case, this Court is of considered view that it is a fit case to allow the petition in the interest of justice.

6. In the result, the civil revision petition is allowed, setting aside the order dated 12.9.2017 passed in I.A.No.831 of 2017. Consequently, I.A.No.831 of 2017 in O.P.No.505 of 2014 on the file of the XIV Additional District Court-cum-Additional Family Court, Vijayawada (O.P.No.65 of 2015 on the file of Family Court, Khammam) is allowed. The petitioner is directed to cross-examine P.W.1 on the date fixed by the trial Court, failing which the trial Court (Family Court, Khammam) is at liberty to proceed with the matter in accordance with law. Miscellaneous petitions if any pending in this revision petition shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 21.8.2018

NOTE:

Dispatch a copy of the order to
The Family Court, Khammam.

(By order)

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