

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.5817 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 18.09.2017 passed in I.A.No.884 of 2017 in F.C.O.P.No.2338 of 2016 on the file of XV Additional District and Sessions Court-cum-II Additional Family Court, Kukatpally at Miyapur, Ranga Reddy District.

2. Heard the learned counsel for the petitioner.

3. The facts leading to filing of the present revision are briefly as follows:

The marriage of the respondent was performed with the petitioner on 26.08.2016 at Balaji Garden, R.C.Puram, Hyderabad, as per Hindu Rites and Caste Customs. Immediately after the marriage, the respondent joined the petitioner to lead marital life. For one reason or other, disputes arose between the petitioner and respondent; therefore, the respondent has been residing at her parents' house. While things stood thus, the petitioner filed F.C.O.P.No.2338 of 2016 against the respondent under Section 12(2)(a)(ii)(b)(i)(iii) of Hindu Marriage Act for dissolution of marriage between them. The respondent filed a counter opposing the claim of the petitioner. During pendency of F.C.O.P.No.2338 of 2016, the respondent filed I.A.No.884 of 2017, under Section 24 of Hindu Marriage Act, claiming maintenance of Rs.50,000/- per month from the petitioner. The petitioner filed a counter contending that the respondent is not entitled to claim maintenance. The Family

Court, after considering the material available on record, arrived at a conclusion that that the respondent is entitled to claim maintenance from the petitioner and allowed the petition by granting maintenance of Rs.10,000/- per month to the respondent. Hence, the revision.

4. Learned counsel for the petitioner strenuously submitted that the respondent is not entitled to file a petition under Section 24 of Hindu Marriage Act having filed D.V.C.No.43 of 2017 against the petitioner. She further submitted that the respondent stayed for a period of ten days with the petitioner; therefore, she is not entitled to claim maintenance.

5. The point that arises for consideration is:

“Whether there is any illegality, irregularity or impropriety in the impugned order.”

6. It is not in dispute that the respondent is the wife of petitioner. It is also not in dispute that the petitioner is working as a Software Engineer in Tata Advance Systems. As per the case of the respondent, the petitioner is drawing a monthly salary of Rs.1,00,000/- per month. Except the averments in the petition, nothing is produced before the Family Court to establish that the petitioner is earning Rs.1,00,000/- per month. In the counter, the petitioner specifically admitted that he is drawing a monthly salary of Rs.40,000/-. The fact remains that the petitioner is earning Rs.40,000/- per month.

7. Learned counsel for the petitioner submitted that the petitioner has to look after the welfare of his parents. As rightly

pointed out by the learned counsel for the petitioner, the petitioner has to look after the welfare of his parents. But at the same time, there is a moral and social obligation on the part of the petitioner to provide a reasonable amount towards the maintenance of his wife i.e., the respondent. No evidence much less legally admissible evidence was produced before the Family Court to establish that the respondent is an earning member. The respondent has to depend either on the petitioner or her parents. The petitioner cannot escape from his moral and legal obligation. Viewed from any angle, the petitioner has to provide a reasonable amount to the respondent towards her maintenance. Mere filing of D.V.C. by the respondent would not prevent her to file a petition under Section 24 of Hindu Marriage Act.

8. The next question that falls for consideration is whether the amount of maintenance granted by the Family Court is on higher side?

9. As observed earlier, the petitioner is earning Rs.40,000/- per month. In such circumstances, granting an amount of Rs.10,000/- per month to the respondent is not on higher side. The trial Court, after taking into consideration the social and financial status of both parties, granted maintenance of Rs.10,000/- per month to the respondent even though she claimed Rs.50,000/-. The trial Court has assigned reasons much less cogent and valid reasons to its findings. I am fully endorsing with the findings recorded by the trial Court. Viewed from any angle, I am unable to accede to the contention of the learned counsel for the petitioner that granting of maintenance of Rs.10,000/- per

month to the respondent is on higher side. There is no illegality, irregularity or impropriety in the order of the trial Court warranting interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India.

10. In the result, the Civil Revision Petition is dismissed at the admission stage. There shall be no order as to costs.

11. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

Date: 27.11.2018
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T.SUNIL CHOWDARY, J

