

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.7001 of 2018

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, assailing the order dated 26.10.2018 in I.A.No.35 of 2017 in H.M.O.P.No.51 of 2015 on the file of the Senior Civil Judge Court, Suryapet.

2. Heard the learned counsel for the petitioner.

3. The parties to this revision petition will hereinafter be referred to as they were arrayed in the I.A.

4. A perusal of the record reveals that the marriage of the petitioner was performed with the respondent on 09.6.2010 as per Hindu rites and caste customs. Immediately after the marriage, the petitioner joined the respondent to lead marital life. Out of lawful wedlock, they were blessed with a daughter. Due to one reason or the other, disputes arose between the petitioner and respondent; therefore, the petitioner, along with her daughter, has been residing at her parents' house at Thangellagudem, Penpahad Mandal, Suryapet. While the things stood thus, the respondent filed H.M.O.P. No.51 of 2015 against the petitioner under Section 13(1)(ia)(ib) of the Hindu Marriage Act, for dissolution of the marriage between them. During the pendency of the H.M.O.P., the petitioner filed I.A.No.35 of 2017 under Section 24 of the Hindu Marriage Act, claiming interim maintenance of Rs.10,000/- per month to the petitioner, Rs.7,500/- per month to her daughter, and Rs.10,000/- towards legal expenses. The respondent-petitioner herein filed counter *inter alia* contending that the

petitioner is highly qualified person; therefore, she is not entitled to claim maintenance. Basing on the material available on record, the trial Court allowed the petition by granting interim maintenance of Rs.5,000/- per month to the petitioner, Rs.3,000/- per month to her daughter, and Rs.5,000/- towards legal expenses. Hence, the revision petition.

5. The point that arises for consideration in this revision is:

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

6. The learned counsel for the respondent submitted that the petitioner is highly qualified person; therefore, she is not entitled to claim maintenance. He further submitted that there is a social obligation on the part of the respondent to look-after his parents; therefore, it is a fit case to allow the revision.

7. The petitioner is the wife of the respondent. Out of lawful wedlock, they were blessed with a daughter. It is an admitted fact that the respondent is drawing a salary of Rs.30,000/- per month. As rightly pointed out by the learned counsel for the respondent, the respondent has to look-after his parents. It is the case of the respondent that the petitioner is having landed property, but he did not choose to produce any document to establish the same. Except the averments made in the counter, there is no other convincing evidence to establish that the petitioner is having any source of income. In the absence of any property or source of income, it is very difficult for the respondent to look-after herself and her child aged about six years. There is a moral and legal obligation on the part of the petitioner to look-after the welfare of his wife and children.

8. The learned counsel for the respondent submitted that the petitioner filed the Domestic Violence Case against the respondent. There is no material on record to establish that interim maintenance was granted in favour of the petitioner in the D.V.C. Mere pendency of the D.V.C., by itself is not a valid ground to dismiss the present petition.

9. Taking into consideration the financial status of both the parties, the trial Court granted interim maintenance of Rs.5,000/- per month to the petitioner and Rs.3,000/- per month to her daughter. An amount of Rs.8,000/- is hardly sufficient for sustenance of two individuals in view of prevailing cost of living. Viewed from any angle, granting of an amount of Rs.8,000/- per month to the petitioner and her daughter towards interim maintenance, and an amount of Rs.5,000/- towards legal expenses, is not on higher side. The findings recorded by the trial Court are supported by the material available on record. I am fully endorsing the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the impugned order, which warrants interference of this Court, while exercising the jurisdiction under Article 227 of the Constitution of India.

10. Hence, the civil revision petition is dismissed. Miscellaneous petitions, if any pending in this revision shall stand closed.

T.SUNIL CHOWDARY, J

Date: 03.12.2018

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