

High Court for the State of Telangana

The Hon'ble The Chief Justice Raghvendra Singh Chauhan

and

The Hon'ble Sri Justice A. Abhishek Reddy

F.C.A. No. 227 of 2017

Date: 30-09-2019

Between:

Kamepally Pushpalatha

...Appellant

And

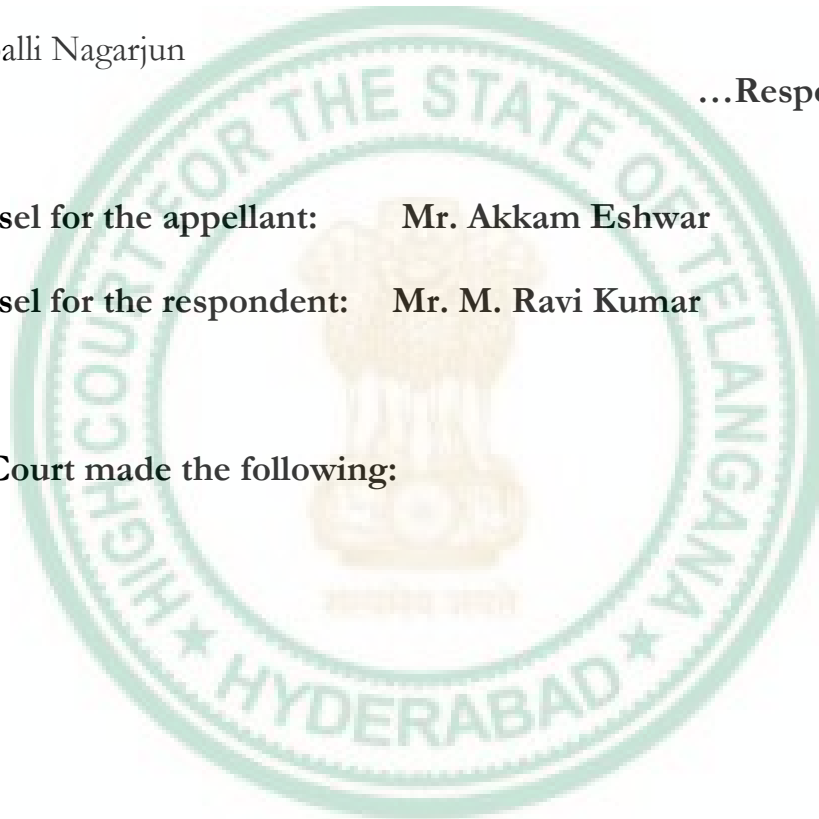
Arkapalli Nagarjun

...Respondent

Counsel for the appellant: Mr. Akkam Eshwar

Counsel for the respondent: Mr. M. Ravi Kumar

The Court made the following:



Judgment: (per Hon'ble The Chief Justice Raghvendra Singh Chauhan)

The appellant-wife is aggrieved by the order dated 19-12-2016, passed by the Judge, Family Court, Ranga Reddy District at L.B. Nagar, in F.C.O.P. No. 1270 of 2016, whereby the learned Judge has granted a divorce under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act').

According to the respondent-husband, the marriage was performed on 15-02-2015. Since certain disputes had arisen between both the parties, they decided to file an application under Section 13-B of the Act for dissolution of the marriage. By the impugned order, the marriage was dissolved by the learned Family Court. Hence, this appeal before this Court.

The learned counsel for the appellant-wife submits that in fact, the marriage was solemnised on 07-02-2016, and not on 15-02-2015. Therefore, according to the learned counsel, the divorce petition is not even maintainable as it was filed within one year of the marriage.

Secondly, accordingly to the learned counsel, the appellant did not realise that she has been taken to the Court for seeking divorce on mutual consent.

Thirdly, the impugned order has been passed behind her back. Thus, the impugned order is an *ex-parte* decree dissolving the marriage dated 15-02-2015. Hence, the impugned order deserves to be interfered with.

On the other hand, the learned counsel for the respondent-husband, has pleaded that even according to the impugned order, both the parties had appeared before the learned Family Court. The learned Family Court had tried to reconcile the differences between the parties by referring them to mediation. However, as the mediation failed, both the parties appeared on 19-12-2016 before the learned Family Court and filed their respective affidavits. In her affidavit, the appellant has clearly stated that she has no desire to live with the respondent. It is only on the basis of the affidavits, so filed by both the parties, that the impugned order and decree were passed by the learned Family Court. Therefore, the learned counsel is unjustified in claiming that it is an *ex-parte* order and decree. Hence, the learned counsel has supported the impugned order dated 19-12-2016.

Heard the learned counsel for both the parties.

In catena of cases, the Hon'ble Supreme Court has clearly opined that the Court should consider the facts, which have been recorded by the learned trial court in its order. Any statement or argument contrary to the facts narrated in the order should not be accepted by the appellate Court.

A bare perusal of the impugned order clearly reveals that both the parties had appeared before the Family Court. In order to reconcile the differences between both the parties, they were referred to the Mediation Center. However, the mediation proceedings failed to achieve any fruitful result. Moreover, according to the impugned order, both the parties appeared before the Family Court on 19-12-2016, and filed their respective affidavits. According to the affidavit filed by the appellant, which is available on page 10 of the paper book, the appellant had stated that marriage was performed on 15-02-2015. Furthermore, the appellant had stated in the affidavit that despite the best efforts of the family, friends and other relatives, the differences could not be reconciled between herself and her husband. Therefore, she prayed to the Family Court that a decree for divorce on mutual consent should be passed by dissolving the marriage dated 15-02-2015. The existence of the

said affidavit has not been denied by the learned counsel for the appellant.

Once the affidavit is admitted by the appellant, the learned counsel for the appellant is unjustified in claiming that the divorce decree has been passed behind the back of the appellant and without her knowledge. For, such a stand is clearly belied by the affidavit filed by the appellant herself.

For the reasons stated above, this Court does not find any merit in the present appeal. Hence, it is hereby dismissed.

As a sequel, miscellaneous petitions, pending if any, stand dismissed as infructuous.

(Raghvendra Singh Chauhan, CJ)

(A. Abhishek Reddy, J)

Dt: 30th September, 2019
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