

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.427 of 2019

ORDER :

Heard the counsel for petitioner. None appears for respondent, though notice in the Civil Revision Petition has been served on the respondent on 25.03.2019.

2. This Civil Revision Petition is filed under Section 115 of Civil Procedure Code, 1908 challenging the order dt.14.11.2018 passed in I.A.No.36 of 2018 in F.C.O.P.No.10 of 2017 on the file of the Judge, Family Court-cum-VIII Additional District Court, at Mahabubnagar.

3. The parties herein are husband and wife, and they had filed an application under Section 13-B of the Hindu Marriage Act for grant of divorce by mutual consent on 23.02.2017.

4. After the mandatory waiting period was over, on 07.12.2017, the said O.P. was ordered; and the marriage between the parties was dissolved.

5. However, in the cause-title in the order, there were spelling mistakes. So the petitioner herein filed I.A.No.36 of 2018 under Section 152 of Civil Procedure Code, 1908 to correct the same. He stated in the said application that he is working in the Indian Army and when he applied for deleting the name of respondent as his wife from his Service Record, his employer expressed helplessness stating

that because of spelling mistake of names in the order of the decree, the deletion cannot be done.

6. By order dt.14.11.2018, the Court below dismissed the application on the ground that there is no such mistake since the order contains only the names of the parties as per the F.C.O.P. filed by parties.

7. Challenging the same, the present Civil Revision Petition is filed.

8. The counsel for petitioner stated that if the order passed in the F.C.O.P. is not corrected, grave prejudice would be caused to petitioner since his Service Record would continue to have the name of respondent as his wife though there has been a dissolution of marriage between the parties.

9. I agree with the contention of the counsel for petitioner.

10. Merely because the names in the F.C.O.P. order are identical with the names mentioned in the F.C.O.P. itself filed by parties, the Court cannot decline relief to parties. Once the party comes forward stating that there is a mistake in the order, it is the duty of the Court to correct the same and it cannot refuse to correct the same on hypertechnical grounds.

11. Therefore, the Civil Revision Petition is allowed. The dt.14.11.2018 passed in I.A.No.36 of 2018 in F.C.O.P.No.10 of 2017

on the file of the Judge, Family Court-cum-VIII Additional District Court, at Mahabubnagar is set aside; and the said I.A. is allowed. The said Court is directed to issue corrected copy of the F.C.O.P. order as per the application filed by petitioner within a period of two (02) weeks from the date of receipt of copy of the order. No order as to costs.

12. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04.04.2019

Ndr/*

