

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.1284 of 2019

ORDER:

Heard Sri K.Raghuveer Reddy, Counsel for petitioner and Sri K.Devendar, Counsel for respondent.

2. This Revision is filed challenging the order dt.06.05.2019 in I.A.No.361 of 2019 in F.C.O.P.No.192 of 2019 passed by the XVI Additional District and Sessions Judge-cum-XVI Additional Metropolitan Sessions Judge, Ranga Reddy District at Malkajgiri refusing to advance the said O.P.

3. Petitioner and respondent are husband and wife.

4. An O.P. under Section 13B of Hindu Marriage Act, 1955 (for short 'the Act') for grant of divorce by mutual consent was presented on behalf of petitioner and respondent on 22.10.2018. The said O.P. was however numbered as F.C.O.P.No.192 of 2019 on 19.03.2019 because it was returned on a technical objection that the parties did not appear when it was filed and it was represented on 04.02.2019. The Court below taking into account the mandatory waiting period of six months posted the matter to 20.09.2019.

5. Petitioner and respondent jointly filed an application I.A.No.361 of 2019 stating that the O.P. had been filed on 22.10.2018, that both are employed in software companies and

they have to go abroad for their employment, and requested to advance the date from 20.09.2019 to an early date.

6. The Court below rejected the same on 06.05.2019 stating that six months time under Section 13B of the Act has to be calculated from the date of the numbering of the O.P i.e., 19.03.2019 and not from the date of its filing on 22.10.2018.

7. Challenging the same this Revision is filed.

8. The reasoning of the Court below does not appear to be correct in view of sub-Section (2) of Section 13B of the Act, which states that the matter can be taken up after expiry of six months from the date of presentation of the petition and before the expiry of 18 months.

9. Therefore, the Court below was not right in stating that the six months period is to be counted only from the date of its numbering and not from the date of its presentation.

10. Merely because the parties did not appear at the time of presentation of the O.P., that does not make any difference since neither party had disputed that they jointly presented the petition.

11. Therefore, this Civil Revision Petition is allowed; the impugned order is set aside; I.A.No.361 of 2019 in F.C.O.P.No.192 of 2019 on the file of the XVI Additional District and Sessions Judge-cum-XVI Additional Metropolitan Sessions Judge, Ranga

Reddy District at Malkajgiri is allowed; and the Court below is directed to take up the said O.P. on 19.06.2019. Both the parties undertake to appear before the said Court on the said day at 10.30 a.m. No order as to costs.

12. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

13th June, 2019.

Note: Issue CC in two days.

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