

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP. Nos.1583 and 1591 of 2019

COMMON ORDER:

These two Revisions arise out of the same case between the same parties and therefore, they are being disposed of by this common order.

2. Petitioner is the husband of the respondent and he had filed FCOP.No.182 of 2015 before Judge, Family Court-cum-III Additional District and Sessions Judge, Warangal, for restitution of conjugal rights or in the alternative for dissolution of marriage between them, which took place on 10.04.2010.

3. After the trial was concluded, petitioner filed I.A. No.311 of 2018 to reopen the main case and I.A. No.312 of 2018 to amend the prayer in the main O.P. withdrawing the relief of restitution of conjugal rights and also to add a paragraph therein pleading irretrievable breakdown of marriage.

4. By common order dt.22.04.2019 both applications were dismissed on the ground that the trial had already commenced.

5. Counsel for the petitioner contended that there is no chance of petitioner seeking restitution of conjugal rights in view of the attitude of the respondent and therefore, the Court below should have permitted him to amend the prayer in the O.P. and also to add a paragraph in question wherein he wanted to rely on the plea of the irretrievable breakdown of marriage.

6. Since the trial has already commenced, the petitioner cannot be now permitted to make any amendment in the absence of evidence of due diligence on the part of the petitioner as to why he could not claim such amendment before the trial commenced.

7. However, if the petitioner intends to give-up the relief of restitution of conjugal rights, which he has sought in the O.P. as an alternative relief to the relief of the dissolution of marriage, he is permitted to file a Memo in the Court below stating that he does not wish to claim the said relief and the said Memo shall be taken into account by the Court below. Once the plea of amendment of the O.P. has been rejected, there is no necessity to reopen the main O.P. Therefore, with the above observations, these two Revisions are dismissed. There shall be no order as to costs.

8. As a sequel, miscellaneous applications, if any pending shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 10.07.2019

LSK

