

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.2248 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/husband, challenging the order, dated 24.04.2019, passed in M.P.No.540 of 2018 in M.C.No.39 of 2018, by the Judge, Family Court at Secunderabad, whereby, the petition filed by the respondent/wife under Order VI Rule 17 of C.P.C. before the Court below seeking amendment of pleadings in the main Maintenance Case No.39 of 2018, was allowed.

2. Heard the learned counsel for the petitioner/husband and perused the record.

3. The learned counsel for the petitioner/husband would submit that amendment, which was allowed to be made to the pleadings in the Maintenance Case, changes the basic structure of the Maintenance Case, including the cause of action. Therefore, the Court below ought not to have allowed such amendment and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition.

4. The material placed on record reveals that the respondent/wife filed the Maintenance Case in M.C.No.39 of 2018 against the petitioner/husband before the Family Court, Secunderabad. In the affidavit filed in support of the said Maintenance Case, the respondent/wife averred that the

petitioner/husband neglected to maintain her and her children. Subsequently, the respondent/wife filed the subject Interlocutory Application in M.P.No.540 of 2018 seeking substitution of para 2a in place of para 2 of the pleadings in the Maintenance Case.

5. Admittedly, the parties to the *lis* have no issues/children at all. It appears that by mistake, the words 'the petitioner/husband neglected to maintain the respondent/wife and her children' would have crept into the pleadings of the Maintenance Case. Further, paragraph 2a contains some material facts, which require adjudication between the parties to the litigation. The ground on which the amendment was sought was that the advocate had not properly drafted the pleadings in the Maintenance Case. Substitution of paragraph 2a in the place of paragraph 2 of the pleadings in the Maintenance Case would not alter the nature of the proceedings or the cause of action. The amendment sought is necessary to adjudicate the subject Maintenance Case. The Court below had rightly exercised its jurisdiction in passing the impugned order. The order under challenge does not suffer from illegality or infirmity. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

6. In the result, the Civil Revision Petition is dismissed. Since the subject application in M.P.No.540 of 2018 was allowed by the Court below and this Civil Revision Petition is dismissed, the petitioner/husband is entitled to file additional

counter and proceed with the enquiry of the Maintenance Case, in accordance with law.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

24th September, 2019
Bvv

