

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
WEDNESDAY, THE NINETEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE DR. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION NO: 4146 OF 2012

(Petition under Article 227 of the Constitution of India, aggrieved by the order dated. 31-05-2012 in IA.No.32 of 2012 in O.P.No. 135 of 2010 on the file of the court of the Judge, Family court at Hyderabad)

Between:

1. N.V.B. Gangadhara Rao, S/o N.V. Ramana Murthy, age about 47 years, Private Service R/o Rajahmundry, E.G. District.
2. Smt. NB. Nagarathnamma, W/o N.V. Ramana Murthy, aged about 62 years, Housewife R/o MIG 16, Ramanaiahpet, Kakinada, E.G. District.

...Petitioner/Respondent/ Petitioner

AND

1. Smt. Kavitha Rani, W/o N.V.B. Gangadhara Rao, R/o 2-2-647/152/3, Central Excise Colony, Bagh Amberpet, Hyderabad

...Respondents/Respondent/Petitioner

I.A. NO: 1 OF 2012(CRPMP. NO: 5483 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of further proceedings in OP NO. 1395 of 2010 on the file of Family Court, Hyderabad.

Counsel for the Petitioner(s):SRI. M R S SRINIVAS

Counsel for the Respondents: SRI K SURESH REDDY

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.4146 of 2012

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the revision petitioners/defendants aggrieved by the order, dated 31.05.2012, passed in I.A.No.32 of 2012 in O.S.No.1395 of 2010 by the Judge, Family Court, Hyderabad, wherein the subject Interlocutory Application filed under Section 10 read with 151 of the Code of Civil Procedure, 1908, to stay all further proceedings in O.S.No.1395 of 2010 till disposal of appeals in F.C.A.Nos.38 and 221 of 2010 pending before this Court, was dismissed.

2. Heard the learned counsel for the revision petitioners/defendants and perused the record.

3. In spite of service of notice, there is no representation on behalf of the respondent/plaintiff.

4. Learned counsel for the revision petitioners/defendants would submit that identical facts and issues are required to be determined in both the appeals in F.C.A.Nos.38 and 221 of 2010, as well as in the subject suit in O.S.No.1395 of 2010. The subject suit in O.S.No.1395 of 2010 was filed subsequent to institution of the said appeals. Therefore, O.S.No.1395 of 2010 is required to be stayed till completion of the proceedings in F.C.A.Nos.38 and 221 of 2010 pending before this Court. It is further submitted that without advertting to the material facts in

correct perspective, the Court below erred in dismissing the subject Interlocutory Application and ultimately, prayed to set aside the impugned order and allow the subject Interlocutory Application as prayed for.

5. The revision petitioners/defendants filed the appeals in F.C.A.Nos.38 and 221 of 2010 pending before this Court aggrieved by the order, dated 29.10.2009, passed in O.P.No.779 of 2005 and counter claim filed in the said O.P. by the Judge, Family Court, Hyderabad, wherein the said O.P.No.779 of 2005 filed for divorce was dismissed and counter claim filed for restitution of conjugal rights was allowed, whereas the subject suit in O.S.No.1395 of 2010 on the file of Judge, Family Court, Hyderabad, is filed by the respondent/plaintiff, for recovery of amount, gold, silver articles, mentioned in the plaint schedule, with interest @ 18% per annum thereon, said to have been given in the marriage by the parents of the respondent/plaintiff.

6. As seen from the averments in O.S.No.1395 of 2010 as well as appeals in F.C.A.Nos.38 and 221 of 2010, they are filed seeking distinct reliefs with distinct prayers and distinct pleadings. The issues that are required to be determined in O.S.No.1395 of 2010 and F.C.A.Nos.38 and 221 of 2010 are distinct. The Court below has examined the submissions made on behalf of the revision petitioners/defendants in detail and also adverted to the provisions of Section 10 of C.P.C and was pleased to dismiss the subject Interlocutory Application holding that the subject matter in O.S.No.1395 of 2010 and the subject

matter in F.C.A.Nos.38 and 221 of 2010 are distinct and issues are not directly and substantially similar. The finding recorded by the Court below is based on the material placed on record. There is no legal infirmity in the impugned order. Therefore, Section 10 of C.P.C. has no application to stay the subject O.S.No.1395 of 2010 as prayed for. The Court below is justified in passing the impugned order. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

7. Accordingly, the Civil Revision Petition is dismissed. There shall be an order as to costs.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

//TRUE COPY//

SD/- K.AMMAJI
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Judge, Family court at Hyderabad.
2. One CC to SRI. M R S SRINIVAS Advocate [OPUC]
3. One CC to SRI. K SURESH REDDY Advocate [OPUC]
4. Two CD Copies

[Signature]

HIGH COURT

DATED:19/02/2020

ORDER

CRP.No.4146 of 2012



DISMISSING

SSV
5 copies
Dt-28/9/2020