

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD
CIVIL MISCELLANEOUS APPEAL No.72 OF 2020**

JUDGMENT: (per Hon'ble Sri Justice T.Amarnath Goud)

Heard Smt.Mahalakshmi, learned counsel representing Sri Rajesh Theegala, learned counsel for the appellant.

2. This appeal is preferred against the order dated 22.11.2019 in O.P.No.66 of 2017 of the I Additional Senior Civil Judge at Warangal.

3. The appellant and the respondent are wife and husband, whose marriage took place on 20.03.2014. During their wedlock, they were blessed with one female child. As disputes arose between the appellant and the respondent, the respondent filed O.P.No.66 of 2017 before the Court below under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955 seeking grant of divorce by dissolving the marriage between them on the ground of desertion.

4. The appellant filed counter alleging that the respondent and his mother, from the beginning of the marriage, harassed her for bringing additional dowry. It is further stated that when the respondent refused to take the appellant into his conjugal fold, a panchayat was held on 18.02.2017, wherein the respondent agreed to pay a sum of Rs.7,50,000/- to the appellant towards permanent alimony and the same was reduced into writing on Rs.100/- non-judicial stamp paper, but the respondent did not pay the said amount.

5. During the course of trial, the appellant and the respondent admitted about Ex.R.1 copy of undertaking, whereunder both the parties agreed to take divorce on the condition of the respondent paying a sum of Rs.7,50,000/- to the appellant towards permanent alimony on or before 20.03.2017. P.W.2, panchayath elder and R.W.2, the mother of the appellant, also admitted about the contents of Ex.R.1. Basing on the aforesaid evidence, the Court below granted decree of divorce by dissolving the marriage between the appellant and the respondent, directing the respondent to pay Rs.7,50,000/- to the appellant within a time frame, failing which, the appellant would be at liberty to recover the same from the respondent. Assailing the same, this appeal is filed.

6. The counsel for the appellant contended that the Court below ought to have observed that there is no intention on the part of the appellant to disrupt the matrimonial bond, and failure to appreciate the evidence on this point and answering the same against the appellant by granting the decree of divorce, is illegal and contrary to law. She further contended that the Court below ought not to have relied on Ex.R.1 in granting the decree of divorce by ignoring the intention of the appellant to join the company of the respondent to lead conjugal life.

7. A perusal of the order of the Court below shows that on appreciation of the evidence, it has drawn the conclusion that both the parties mutually agreed in the panchayat held on 18.02.2017 to take divorce by dissolving their marriage; that the respondent failed to comply the same; and that they are living separately for

past three years. When the appellant, under Ex.R.1, consented for giving divorce by receiving amount of Rs.7,50,000/- towards permanent alimony for the maintenance of her and her daughter, she has expressed an intention not to continue the matrimonial relationship with the respondent and she is entitled to receive the said amount only, as directed by the Court below, but she cannot seek to join her husband by filing this appeal and seeking to annul the divorce decree. The appellant is at liberty to take steps available to her under law for execution/implementation of the decree for receiving the permanent alimony.

8. It is seen from the record that the appellant also filed police complaint against the respondent and action was initiated. At this juncture, it is not open for the appellant to turn back her stand and contend against the divorce decree and she is estopped from pleading to lead conjugal life with her husband. No cogent reason is made out in the appeal to interfere with the divorce decree passed by the Court below.

9. Therefore, we do not find any merit in this appeal and the same is, accordingly, dismissed. No costs.

10. Miscellaneous petitions, if any, pending shall stand dismissed.

M.S.RAMACHANDRA RAO, J

T.AMARNATH GOUD, J

Date: 26.02.2020
TJMR