

THE HON'BLE JUSTICE G. SRI DEVI
AND
THE HON'BLE SMT. JUSTICE M.G.PRIYADARSINI

F.C.A.No. 65 of 2022

JUDGMENT: (Per Hon'ble Justice G. Sridevi)

This appeal is filed by the husband, who is the plaintiff before the III Additional District Judge, Ranga Reddy District at L.B.Nagar in O.P.No.1476 of 2019, against the wife to declare him as the absolute owner and possessor of the suit schedule house property. By judgment, dated 29.11.2021, the trial Court dismissed the O.P. holding that the suit schedule property exclusively belongs to the wife-defendant. Challenging the said order, the present appeal has been filed.

2. For the sake of convenience, hereinafter the parties shall be referred as husband and wife.

3. Brief facts of the case are that the marriage between the parties took place 40 years back and they were blessed with three sons and three daughters. It is contended that

originally, the suit schedule property was purchased by the wife with the amount sent by the husband in her name from Mohd. Abdul Faheem, represented by his AGPA holder Mohd. Asadullah Shareef. Subsequently, the husband constructed a residential house with his own funds and the parties used to reside therein. After some time, as the wife started harassing him mentally and physically, the husband demanded the wife to transfer the house in his name, for which the wife refused to do so. Hence, the O.P. The wife remained *ex parte*. Considering the documents filed by the husband i.e. Exs.P1 to P5, the trial Court dismissed the O.P. holding that the suit schedule property exclusively belongs to the wife as in Ex.P1 sale deed there is no mention as to the source of money.

4. Heard and perused the record.

5. It is the specific contention of the learned Counsel for the appellant that the suit schedule property was purchased by the husband in the name of his wife by using

the funds earned by him out of his employment in U.A.E. and Saudi Arabia.

6. It is submitted by the learned Counsel for the respondent-wife that the findings of the trial Court needs no interference as the documents that were relied on by the husband themselves show that the suit schedule property has exclusively been purchased by the wife.

7. Although it is specifically contended that by using the amount earned by the husband in his employment at Abroad, the suit schedule property has been purchased by him in the name of his wife, no documents whatsoever has been filed by the husband to substantiate his claim. Even the documents filed by him did not elicit anything as to the source of amount for purchasing the suit schedule property. Therefore, relying upon the judgments of the Apex Court in ***Jayadayal Poddar (deceased) through his L.R.s and another v. Smt. Bibi Hazra and others***¹ the trial Court

¹ 1974 AIR 171

has rightly held that the husband has failed to place any documentary evidence to show that he has sent money to the wife and with that money the suit schedule property was purchased and that the appeal sans merit and the same is liable to be dismissed.

8. Accordingly, the F.C.A. is dismissed, confirming the judgment dated 29.11.2021 passed in O.P.No.1476 of 2019 on the file of the III Additional District Judge, Ranga Reddy District at L.B.Nagar. There shall be no order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

G. SRI DEVI, J

SMT. M.G.PRIYADARSINI, J

26.07.2022
gkv/tsr