

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

AND

HON'BLE SMT JUSTICE M.G. PRIYADARSINI

F.C.A.No.50 of 2017

JUDGMENT:

Heard Sri Kallakuri Srinivasa Rao, learned counsel for the appellant as well as Sri C.M.R. Velu, learned counsel appearing for the respondent.

2. Challenge in this Family Court Appeal is the order that is rendered by the Additional Family Court, Hyderabad, in O.P.No.1209 of 2013 dated 29.01.2016.

3. The respondent, who is the husband of the appellant, moved an application under Section 13(1)(ia) of Hindu Marriage Act, seeking for dissolution of marriage and the Family Court on appreciating the evidence produced i.e., evidence of PW1, RW1 and Exs.P1 to P7, came to a conclusion that relief sought for is justifiable as the ground urged is proved and therefore passed order dissolving the marriage by a decree of divorce. The respondent-wife disputing the said findings is before this Court.

4. On this day, learned counsel for the appellant making his submission, fairly conceded that the appellant is residing away from the respondent for more than a decade and therefore even if the decree of divorce is set aside, they are not going to live together and thus necessary orders may be passed. However, learned counsel for the appellant contended that the appellant is not guilty of cruelty but on that ground a decree of divorce is passed.

5. The submission of learned counsel for the respondent is that the appellant lived along with the respondent only for a period of one year and during the time of pregnancy she left the company of the respondent for delivery and did not join even after she delivered the child. Learned counsel for the respondent submits that the respondent thereafter filed a petition for restitution of conjugal rights. The appellant filed a maintenance case. Subsequently, the matters were settled between the parties and the appellant started residing with the respondent. However within no time, the appellant again left the

company of the respondent and started staying at her parents' house and that attitude itself amounts to cruelty. Learned counsel also stated that though the respondent suffered with heart attack and was admitted at hospital, the appellant did not take care to visit him and that itself goes to show the attitude of the appellant. Learned counsel finally seeks to dismiss the appeal.

6. By the material available on record, it is clear that both the parties could not adjust with each other, though efforts in that regard were put by both. Their attitude resulted in both of them living separately. When the appellant blamed the respondent for breakdown of matrimonial relationship, the respondent blamed the appellant. However, on perusal of entire record, what we could find is that there are no such grave allegations that are directed against the respondent for the appellant to leave the company of the respondent and living away from him along with the child.

7. Further, it is clear that the respondent made his attempts for reconciliation of the family life. The fact

that the appellant left the company of the respondent on trivial issues is borne by record. Therefore, this Court is of the view that the attitude of the appellant towards the respondent amounts to cruelty and the said attitude resulted in breakdown of marriage. The learned Judge discussing each and every aspect of the case has thus come to a just conclusion that the relief sought for i.e., decree for dissolution of marriage is justifiable and thereby allowed same.

8. Therefore, we do not have any reason to interfere with the order of the Family Court, which detailed on each and every aspect of the case and came to a just conclusion. Thus, we are of the view that present appeal deserves dismissal.

9. Resultantly, the appeal is dismissed without costs. However, it is made clear that any of the finding given in this Order does not come in the way of payment of maintenance or permanent alimony either in favour of the appellant or her child.

10. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

JUSTICE M.G.PRIYADARSINI

Date: 27.01.2023

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