

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

AND

HON'BLE SMT JUSTICE M.G. PRIYADARSINI

F.C.A.No.70 of 2011

JUDGMENT:

Heard Sri M. Damodar Reddy, learned counsel for the appellant. Though Sri T.S.K. Trilok Raj, learned counsel is on record representing the respondent, learned counsel failed to submit his contentions.

2. Challenge in this appeal is the order that is rendered by the Additional Family Court, Hyderabad in O.P.No.788 of 2008 dated 06.01.2011.

3. The respondent, who is the wife of the appellant, moved an application seeking for dissolution of marriage on the grounds of cruelty and adultery on part of the appellant herein.

4. The Family Court on appreciating the evidence of PWs.1 to 3 and RW1 came to a conclusion that there are reasonable grounds to believe the pleas taken for dissolution of marriage and accordingly passed a decree of divorce. The Family Court through the impugned order

also directed the appellant herein to pay a sum of Rs.2,00,000/- towards permanent alimony to the respondent herein.

5. On this day, making his submission, learned counsel for the appellant contends that the appellant being a poor person is not in a position to pay such a huge amount and further, without taking into consideration the financial status of the appellant, such an amount was awarded towards permanent alimony and therefore, the appellant is before this Court. Learned counsel states that except disputing quantum of amount awarded towards permanent alimony, the appellant is not disputing any of the findings given.

6. When the impugned order is looked into, we find that having considered the point elicited during the course of cross examination of appellant while he was examined as RW1 that he purchased an Auto and he is earning Rs.100/- per day, the learned Judge of the Family Court, expressing his opinion that now-a-days a person, who is owning an auto, is earning not less than 400/- per day excluding the expenses for fuel, directed the appellant

herein to pay a sum of Rs.2,00,000/- towards permanent alimony. However, as rightly put forth by the learned counsel for the appellant, without there being any substantive evidence with regard to the actual earnings, such an amount ought not to have been awarded towards permanent alimony. Furthermore, the respondent failed to dispute the grounds urged and submission made by learned counsel for the appellant across the Bench seeking for reduction of the amount on the ground of incapacity of the appellant to pay the same.

7. Having considered the occupation and earning of the appellant, which are borne by record, we are of the view that awarding a sum of Rs.1,00,000/- towards permanent alimony appears to be just and reasonable. Therefore, the appeal is liable to be allowed to that extent.

8. Resultantly, the appeal is allowed in part. The appeal stands dismissed so far as the order rendered regarding dissolution of marriage between the parties is concerned. The order of the Additional Family Court is modified only to the extent of payment of permanent alimony. The permanent alimony payable is reduced from

Rs.2,00,000/- to Rs.1,00,000/-. The appellant is directed to pay the said amount within two (2) months from the date of the Judgment. No order as to costs.

9. 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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