

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

-
-
F.C.A.Nos.180 & 189 OF 2010

AND

F.C.A.MP.Nos.29 & 30 OF 2015

-
-
COMMON JUDGMENT: (Per Hon'ble Sri Justice R. Subhash Reddy)

These appeals, under Section 19 of the Family Courts Act, 1984, are filed aggrieved by the common order, dated 25.06.2010, passed in O.P.Nos.170 and 393 of 2006 by the Family Court – cum – IV Additional District and Sessions Court, Vijayawada.

Appellant and the respondent are husband and wife. Respondent – wife has filed O.P.No.170 of 2006, under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights, and M.C.No.41 of 2006, under Section 125 Cr.P.C., for maintenance at Rs.5,000/- per month each to her and the child, whereas the appellant – husband filed O.P.No.393 of 2006, under Section 13 (1) (ib) of the Hindu Marriage Act, for dissolution of marriage performed between himself and the respondent. The Family Court, by impugned order, dated 25.06.2010, while dismissing the O.P. filed by the appellant, allowed the O.P. and M.C. filed by the respondent with a direction to the appellant to pay Rs.6,000/- per month to the respondent and Rs.2,000/-

per month to the child towards their maintenance. Aggrieved by the order passed in M.C.No.41 of 2006, the appellant – husband has preferred Crl.R.C.No.1415 of 2010 and this Court, by order, dated 02.09.2010, modified the quantum of maintenance awarded to the respondent from Rs.6,000/- p.m. to Rs.5,000/- p.m., while confirming the maintenance granted to the child, whereas aggrieved by the orders passed in O.P.Nos.170 and 393 of 2006, the present appeals are filed.

During pendency of the appeals, respondent - wife has filed F.C.A.MP.Nos.29 and 30 of 2015, under Order XXIII Rule 3 C.P.C., to record compromise and to dispose of the appeals by dissolving the marriage performed between herself and the appellant - husband in terms of the Memorandums of Compromise annexed to the Miscellaneous Petitions.

In the affidavits filed in support of the petitions, it is stated that the parties have settled the dispute and Memorandums of Compromise are entered into between them subject to certain terms and conditions, which include that the appellant – husband has agreed to pay maintenance to the respondent and their minor child as per the order, dated 02.09.2010, passed by this Court in Crl.R.C.No.1415 of 2010.

When the matters are called, the parties, who are

present in person and who have been identified by their respective counsel, have requested to dispose of the appeals in terms of the Memorandums of Compromise annexed to the petitions.

In view of the reasons stated in the affidavits filed in support of the petitions, F.C.A.MP.Nos.29 and 30 of 2015 are allowed as prayed for and consequently, the appeals stand allowed dissolving the marriage performed between the appellant and the respondent subject to the terms and conditions enumerated in the Memorandums of Compromise. The Memorandums of Compromise shall form part of the decrees. It is made clear that the respondent and her minor child are entitled to maintenance as per order, dated 02.09.2010, passed by this Court in CrI.R.C.No.1415 of 2010. If the appellant commits default in paying maintenance as per order, dated 02.09.2010, it is open to the respondent and her child to execute the decree of maintenance and in that event, it is also open for them to file an application in future for enhancement of maintenance.

Miscellaneous Petitions, if any, pending in these appeals shall stand closed. No costs.

R.SUBHASH

REDDY, J

Dr. B. SIVA SANKARA

RAO, J

February 11, 2015

MD