

**THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

F.C.A.No.168 OF 2015

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

This appeal, under Section 19 of the Family Courts Act, 1984, is filed aggrieved by the order and decree, dated 07.08.2013, passed in O.P.No.59 of 2007 by the Principal Senior Civil Judge, Gudivada, by which, the petition filed by the respondent – husband, under Section 13 (1) (ib) of the Hindu Marriage Act, 1955, seeking divorce, was allowed.

In the aforesaid O.P., it is the case of the respondent that his marriage with the appellant was performed on 07.03.1996 at Dwaraka Tirumala as per Hindu Rites and Customs and soon after their marriage, they have set up a separate family at Edula Madali Village. It is alleged that since beginning, appellant has no intention to lead marital life with him and she has stated so openly, and she has also refused for consummation with him. On the ground that the appellant left the matrimonial home without any reason in the month of January, 2003 and started living separately, in spite of the request made by him to join his company, the aforesaid O.P. was filed for grant of divorce on the ground of desertion.

The appellant filed counter affidavit opposing the

averments made in the O.P.. It is the case of the appellant before the Court below that three months after the marriage, the trouble started because the respondent took away her gold ornaments weighing about seven to eight Tulas and sold the same to help his parents. It is alleged that when she requested the respondent to return the gold ornaments, he started torturing her physically and mentally. It is further alleged that about six months after residing at Edula Madali Village, they shifted to Madira, Khammam District, and lived there for a period of three years and even at that time, he ill-treated her and thereafter, they have shifted the family to Gudivada, where the respondent did business in cool drink – cum – pan shop arranged by his father and out of the profits gained from such business, he has purchased a van worth Rs.60,000/- and to repair such van, he has taken further gold ornaments weighing 4 ½ Tulas belonging to her mother with a promise to return the same, but he failed to return the same and tortured her further.

Before the Family Court, on behalf of the respondent, PWs.1 and 2 were examined and Exs.P1 to P4 were marked. On behalf of the appellant, RW.1 was examined, but no documents were marked.

The Family Court, having considered the oral and documentary evidence on record, mainly by relying on the cross-examination of the appellant that after she left the

company of the respondent, she never made efforts for mediation, recorded a finding that the appellant refused to join the company of the respondent and granted decree of divorce on the ground of desertion by dissolving the marriage performed between the appellant and the respondent.

Even in this appeal, it is fairly submitted by the learned counsel for appellant that the appellant is not interested in joining the company of the respondent, but she claims for grant of maintenance.

On the other hand, learned counsel for the respondent has produced a copy of the order, dated 07.08.2013, passed in I.A.No.1985 of 2012 in the aforesaid O.P.. From a perusal of the same, it is clear that on the same day, when the O.P. was disposed of, by way of separate order, the aforesaid I.A. filed by the appellant – wife was allowed by granting an amount of Rs.1,00,000/- to the appellant towards permanent alimony.

Though it is submitted by the learned counsel for appellant that the appellant is entitled to further amount towards maintenance, in the absence of any evidence on record with regard to the income of the respondent, we do not find any merit in this appeal so as to interfere with the impugned order or to grant alimony, as the appellant is not

willing to join the company of the respondent and left him in the year 2003 itself.

Accordingly, the appeal is dismissed. Miscellaneous Petitions, if any, pending in this appeal shall stand closed. No costs.

JUSTICE R.SUBHASH

REDDY

JUSTICE A.SHANKAR

NARAYANA

July 08, 2015
MD