

HON'BLE SRI JUSTICE P. NAVEEN RAO
CIVIL REVISION PETITION NO.3799 OF 2018

Date: 10.07.2018

Between:

Anchuri Chaitanya Kumar,s/o. Ramesh, Aged 29 years,
Occu: Pvt.Employee, R/o. Varasiguda, Near Aryasamaj,
Secunderabad, Hyderabad

.... Petitioner/respondent/
petitioner

And

Anchuri @ Rapaka Swathi, W/o. Chaitanya Kumar,
Aged 27 years, occu: Pvt.Employee, R/o. 2-6-1154,
Gokul Nagar, Hanamkonda, Warangal district.

.... Respondent/petitioner/
respondent



The Court made the following:

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ORDER:

F.C.O.P.No.135 of 2014 pending on the file of Family Court at Warangal was filed by petitioner herein praying to grant decree of divorce by dissolving the marriage between the petitioner and respondent. In the said O.P., respondent filed I.A.No.263 of 2014 under Section 24 of the Hindu Marriage Act praying to grant interim maintenance at the rate of ₹ 25,000/- per month. The Family Court, by order dated 09.06.2016 allowed the petition in part directing the petitioner herein to pay a sum of ₹ 5000/- towards interim maintenance from the date of filing of petition. Aggrieved by the said order, petitioner herein filed CRP No.5212 of 2016. Said CRP was heard along with CRP No.5204 of 2016 and CRP No.3049 of 2017. On behalf of petitioner it was contended that respondent was gainfully employed and therefore not entitled to maintenance. Petitioner also placed on record the photo copies of annual income tax statements of respondent to show that respondent is gainfully employed. On due consideration of the respective submissions and as both counsel agreed for setting aside order in IA No.263 of 2014 and to remand, the order in IA was set aside and matter was remanded for fresh consideration.

2. It is useful to extract Order in paragraph-10. It reads as under:

“10. Having regard to the facts and circumstances, the business of the respondent and the difficulty of the petitioner and their background this Court considers it quite just and reasonable to grant interim maintenance of ₹ 25,000/- only per month to the petitioner from the date

of the petition payable by the respondent/husband to the petitioner.”

3. In the counter affidavit filed by petitioner in IA No.263 of 2014, petitioner specifically pleaded that respondent is working in Pfizer Co.Ltd., as Professional Service Officer and earning more than ₹ 40,000/- per month. It is also contended that respondent deserted the petitioner and leading adulterous life and therefore not entitled to claim maintenance. On remand, respondent filed rejoinder stating that on the date of filing of IA No.263 of 2014, she was removed from service and therefore she stated that she was housewife. It is further deposed that on her request she was reinstated into service after the petition was decided.

4. According to learned counsel for petitioner, it was contended before the Court below that as respondent was gainfully employed she is not entitled to claim maintenance and without deciding the said objection the orders are passed awarding high maintenance. He would submit that all the facts in support of plea of petitioner were placed before the Family Court. It was also contended that though respondent was gainfully employed a false statement was made showing as if she is an employee having no financial recourse to eke out living. He would submit that these contentions were not considered and no reasons are assigned in support of the decision to award maintenance.

5. *Per contra*, learned counsel for respondent would submit that whether respondent is gainfully employed has no relevance. Respondent is his wife and it is mandatory for petitioner to maintain his wife until decree sought by him is granted. He would

further submit that petitioner is having high position in his employment and earns handsomely, therefore, the compensation awarded by Family Court is just and equitable.

6. Reading of the order of the Family Court would show that there is no discussion on the respective stands with reference to issue of maintenance. The Family Court leaves the issue whether respondent is working and living on her own to be decided after the full-fledged trial and it is not the stage to decide that issue. It has not assigned reasons as to how quantum of maintenance is decided.

7. Before awarding maintenance, it is necessary for the Family Court to deal with objection against claim of wife for maintenance and cannot postpone to a future date. Thus, the order under revision is not sustainable and is accordingly set aside.

8. As already noticed by this Court in the earlier round of litigation, the petition to grant maintenance was instituted in the year 2014 and already faced two rounds of litigation. It is hoped and expected that the Family Court shall decide the claim in IA No.263 of 2014 expeditiously and preferably within a period of three weeks from the date of receipt of copy of this order after affording due opportunity to the respective parties to make submissions and on due consideration of material already placed on record. At this stage, no new material can be placed on record in IA and parties may make their submissions based on material already placed on record. The parties, through their counsel may make a request for mutually convenient day and shall appear on the said date of hearing and make their submissions.

9. The FCOP is of the year 2014. Therefore, the Trial Court may consider expediting disposal of the FCOP.

10. The Civil Revision Petition is accordingly allowed. It is made clear that there is no expression of opinion on merits. However, in the facts of this case no order as to costs. Pending miscellaneous petitions stand disposed of.

Office is directed to dispatch copy of this order within two days.

Date: 10.07.2018
Kkm

JUSTICE P.NAVEEN RAO



HON'BLE SRI JUSTICE P. NAVEEN RAO



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