

A. Rajamma Vs. A. Krishnama Naidu

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Court : Andhra Pradesh

Decided On : Nov-07-1963

Reported in : AIR1964AP460

Judge : P. Chandra Reddy, C.J. and ;Gopal Rao Ekbote, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 3 and 19; Madras Civil Courts Act, 1873 - Sections 3A

Appeal No. : A.A.O. No. 85 of 1962

Appellant : A. Rajamma

Respondent : A. Krishnama Naidu

Advocate for Def. : A. Bhujanga Rao and ;G. Gopala Rao, Adv.

Advocate for Pet/Ap. : G. Suryanarayana, Adv. for ;P. Ramakoti, Adv.

Disposition : Appeal dismissed

Judgement :

Chandra Reddy, C.J.

1. In this appeal against the judgment of the Additional District Judge, Chittoor, accepting the husband's petition under Section 9 of the [Hindu Marriage Act, 1955](#), the only point raised is that it was not competent for the Additional District Judge

to deal with petitions under the [Hindu Marriage Act, 1955](#), as these matters are within the exclusive jurisdiction of the District Judge or such other Judge on whom jurisdiction to deal with these matters is specifically conferred by the State Government. It is urged that the Additional District Judge, Chittoor is not invested with power to dispose of petitions under the Hindu Marriage Act and as such he had no jurisdiction to dispose of the petition under Section 9 of that Act presented by the husband in this case.

2. The answer to this contention depends on the interpretation to be placed on the relevant provisions of the Hindu Marriage Act and the Madras Civil Courts' Act, (III of 1873). As the controversy here revolves round Section 19 of the Hindu Marriage Act and Sections 3 and 3-A of the Madras Civil Courts Act, it is profitable to read them here. Section 19, which relates to the jurisdiction of Courts to entertain petitions under the Hindu Marriage Act, runs as follows:-

'Every petition under this Act shall be presented to the District Court within the local limits of whose ordinary original civil jurisdiction the marriage was solemnised or the husband and wife reside or last resided together.'

3. 'District Court' is defined in Section 3(b) of the [Hindu Marriage Act, 1955](#) thus:

'District Court' means, in any area for which there is a city civil Court, that Court, and in any other area the principal Civil Court of original jurisdiction, and includes any other civil Court which may be specified by the State. Government, by notification in the Official Gazette, as having jurisdiction in respect of the matters dealt with in this Act.'

4. It is urged by Sri G. Suryanarayana, learned counsel for the appellant, the wife, that the Court of the Additional District Judge cannot fall within the contemplation of the expressions 'District Court' and the 'Principal Civil Court of original jurisdiction'. Nor can the latter part of the definition in clause (b) apply to the instant case, as the relevant notifications issued by the State Government do not include the Additional Judge, Chittoor.

5. Before we extract Section 3-A of the Madras Civil Courts Act in the light of which the problem that poses itself in this case has to be solved, it is necessary to state that in this case the petition has been presented in the District Court and the District Judge made it over to the Additional District Judge. We have referred to this fact as this, to a large extent, knocks down the foundation of the argument presented by the learned counsel for the appellant. Section 3-A of the Madras Civil Courts Act postulates:

'When in the opinion of the High Court, the state of business pending before the Judge of any District Court, (hereinafter called the 'District Judge') so requires, the (State Government) may appoint one or more Additional District Judges to that Court for such period as they may deem necessary.

The Additional District Judge so appointed shall discharge all or any of the functions of the District Judge under this Act or any other law for the time being in force which the District Judge may assign to them, and, in the discharge of those functions they shall exercise the same powers as the District Judge.'

6. On the language of the Section, the power of a District Judge to make over the cases that were filed in the District Court cannot admit of any doubt. This also makes it clear that the Addl. District Judges are appointed to the District Court. In other words, the Additional District Judge also functions in the District Court. In our State, there is no separate Court of the Additional District Court. There are only Additional Judges appointed to the District Court.

7. A combined reading of Section 19 and Section 3 of the [Hindu Marriage Act, 1955](#) and Section 3-A of the Madras Civil Courts Act can lead only to one result, namely, that the proceedings under the Hindu Marriage Act have to be instituted in the District Court and it is open to the Principal presiding officer of that Court to assign any work to the Additional District Judge and on such assignment the Additional District Judge gets power to dispose of the matter. That apart, the same result can be reached even without invoking the aid of Section 3-A of the Madras Civil Courts Act because the expression 'District Court' does not imply District Judge alone. It includes Additional District Judge also.

8. It was next urged by Sri G. Suryanarayana that the power of assignment of work by the District Judge to the Additional District Judge is restricted to suits and other ordinary proceedings and that it cannot be extended to matters arising out of special jurisdiction. We do not think that we could accede to this proposition. A reference to Section 3-A of the Madras Civil Courts Act dispels any doubts that may be entertained in this behalf. It authorises the Additional District Judge to discharge not only the functions of the District Judge under the Civil Courts Act but under any law for the time being in force. The only requirement is that the work arising under other law should be transferred to the Additional District Judge.

9. This principle is vouched by the observations of Leach, C. J., who delivered the opinion of the Madras High Court in the matter of Srinivasa Rao, (1940) 1 Mad LJ 259 : (AIR 1940 Mad 370) (FB), relied on by the learned counsel for the appellant. It is true that in that case the learned Judges stated that the District Judge, who was directed to hold an enquiry into the charge of professional misconduct, could not pass on his duties to some-one-else as the Madras Civil Courts Act did not provide for it. That is because, under the Legal Practitioners' Act (XVIII of 1879), the District Judge is not authorised to hold enquiries, that being the exclusive domain of the High Court and, in that case, it is the High Court that directed the District Judge to hold an enquiry and so he had no power of delegation. But, if the statute itself had empowered the District Judge to hold the enquiry, undeniably, he would have had power to transfer the duty to the Additional District Judge.

10. The observations of the learned Chief Justice are apposite in this context. Dealing with the argument of the then learned Advocate-General of Madras that Section 3-A of the Madras Civil Courts Act enabled the District Judge to assign the work to the Additional District Judge, this is what the learned Chief Justice remarked:

'I consider that the Legislature had here in mind Acts such as the Indian Companies Act, the Indian Divorce Act and the Succession Act, which confer upon a District Judge jurisdiction in specified matters. If there were a clause in the Legal Practitioners' Act which directed the District Judge to hold the enquiry in a case like the present one, he certainly would have power under Section 3-A of the

Madras Civil Courts Act to assign the inquiry to the Additional District Judge, but there is nothing in the Legal Practitioners' Act which directs the District Judge to hold the inquiry. The Act leaves the matter entirely in the hands of the High Court.'

This ruling lends support to the view we have taken.

11. In *Ramachandra Rao v. State of Madras*, (1961) 2 Andh WR 218 : (AIR 1962 Andh Pra 58) Kumarayya, J., dealing with Section 16 of the Indian Telegraph Act, ruled that the expression 'District Judge' includes the 'Addl. District Judge'. Similarly, in *Maturi Umamaheswararao v. Kotha Kamaraiu*, (1957) Andh LT 814, Satyanara-yana Raju, J., decided, following the principle enunciated in *C. R. P. No. 1693 of 1952* (High Court, Mad), that the expression 'Subordinate Judge' includes 'Additional Subordinate Judge'. It was stated in *Ajit Kumar v. Sm. Kanan Bala*, : AIR1960 Cal565 that all that Section 19 requires is the initiation of proceedings in the District Court and that when once it is done it is open to the Principal District Judge to make it over to the Additional District Judge.

12. On the language of the relevant statutory provisions and the authorities on the point, we have no hesitation in holding that when once a petition under the Hindu Marriage Act is present-ed in the District Court and it is transferred by the District Judge to the Additional District Judge, the latter has power to dispose of the matter. It follows that the Additional District Judge did not act in exercise of his jurisdiction in disposing of the petition under Section 9 of the Hindu Marriage Act.

13. In the circumstances, that the order under the appeal has to be upheld and the appeal is accordingly dismissed. There will be no order as to costs.

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