

V. Nirmala Vs. V. Subba Raju

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Court : Andhra Pradesh

Decided On : Aug-27-2001

Reported in : 2001(6)ALT521

Judge : B.S.A. Swamy, J.

Acts : Hindu Marriage Act - Sections 24; [Code of Civil Procedure \(CPC\) , 1908](#) - Order 16, Rule 2

Appeal No. : C.R.P. Nos. 4824 of 2000 and 3600 of 2001 and C.M.P. 14442 of 2001

Appellant : V. Nirmala

Respondent : V. Subba Raju

Advocate for Def. : S.V. Bhatt, Adv.

Advocate for Pet/Ap. : S.S. Bhatt, Adv.

Judgement :

ORDER

B.S.A. Swamy, J.

1. Since both the C.R.P. and C.M.P are connected they can be disposed of by a common order.

2. Aggrieved by the order dated 9-7-2001 passed by the Senior Civil Judge, Madanapalle in I.A.No. 183 of 2001 acceding to the request of the husband-petitioner in the O.P. to summon the witnesses, the petitioner herein, respondent in the O.P. filed this revision petition.

3. In C.M.P. No. 14442 of 2001 the Senior Civil Judge, Madanapalle sought for extension of time granted for disposal of the O.P. stating that the respondent-wife filed I.A.No. 344 of 2001 to stay the operation of the order passed by him in I.A.No. 183 of 2001 to enable her to obtain stay orders from this Court and the same is pending.

4. The factual background of this case is that the respondent herein filed O.P.No. 93 of 1998 seeking dissolution of marriage and his evidence was closed on 3-7-2000 and the petitioner's evidence was also closed on 26-9-2000. In the meantime the petition filed by the petitioner-wife under Section 24 of the Hindu Marriage Act seeking maintenance was allowed and the respondent-husband was directed to pay maintenance at the rate of Rs. 1,500/- per month. At that stage, the respondent-husband filed I.A.Nos. 298 of 2000 and 299 of 2000 to reopen the case and permit him to examine two witnesses and both the petitions were allowed on condition that he deposits arrears of maintenance by 27-11-2000. As he failed to comply with the order those two applications were dismissed. Thereafter he filed Revision Petition 4824 of 2000 questioning the orders of the Senior Civil Judge in granting maintenance pendente lite in I.A.No. 72 of 2000. After hearing both the parties, the CRP 4824 of 2000 was disposed of by modifying the order of the Court below and reducing the maintenance from Rs. 1,500/- to Rs. 1,000/-. Further in the said order I directed the Senior Civil Judge to dispose of the main O.P. itself within six weeks from the date of receipt of a copy of the order. After the receipt of the order by the Court below, the respondent-husband filed I.A. No. 183 of 2000 under Order 16 Rule 2 C.P.C. requesting the Court to summon the witnesses whom he wanted to examine on his side on the earlier occasion and that application was allowed. Aggrieved by the said order the petitioner filed the present revision petition.

5. When once the respondent failed to comply with the orders in I.A.No. 298 of 2000 to produce the witnesses, it is not known as to how the Court below can allow I.A.No. 183 of 2001 and summon the witnesses. Further both the parties with eyes wide open went to the trial and not only the evidence on the side of the respondent was completed on 3-7-2000 but the evidence on the side of the petitioner was also completed by 26-9-2000 and thereafter he filed the earlier applications and failed to comply with the directions of the Court. Now he filed this application i.e., I.A.No. 183 of 2001 requesting the Court to summon the witnesses and at the same time he has not disclosed as to what is the new evidence that came to his knowledge that can be brought to the notice of the Court by reopening the matter after closing the evidence not only on his side but also on the side of the respondent. This is nothing but subverting the administration of justice by taking undue advantage of the procedural laws that are being followed by the Courts of law. To my mind this is nothing but a frivolous application and does not deserve any consideration.

6. Accordingly, the order of the Court below in I.A.No. 183 of 2001 is set aside and the Revision is allowed. No costs.

7. In the light of the view taken by me the time granted earlier for disposal of the O.P. is extended by two more weeks after receipt of a copy of this order. The C.M.P. 14442 of 2001 is partly allowed.