

Virender Kumar Vs. Veena

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Court : Delhi

Decided On : Aug-11-1969

Reported in : ILR1969Delhi758

Judge : S.N. Andley, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 9; Hindu Marriage (Punjab) Rules, 1956; [Code of Civil Procedure \(CPC\), 1908](#) - Order 6, Rule 15

Appeal No. : Civil Revision Appeal No. 187 of 1969

Appellant : Virender Kumar

Respondent : Veena

Advocate for Pet/Ap. : P.N. Lekhi, Adv

Judgement :

S.N. Andley, J.

(1) This is a petition for the revision of an order dated March 18, 1969 of Mr. K. S. Sidhu, Additional District Judge, Delhi which he passed in Hindu Marriage Act case No. 21 of 1968. The said case has been instituted by the petitioner under section 9 of the Hindu Marriage Act 1955 for restitution of conjugal rights. The petitioner had filed a petition for that purpose which was verified as follows:-

'THEabove-named petitioner states on solemn affirmation 'that paras 1 to 19 of the petition are true to the best of the petitioner's information and belief.

VERIFIEDat Delhi, this, the 10th day of April, 1969.'

(2) On objection being raised the learned Additional Distritct Judge passed the impugned order. He was of the opinion that the verification nto being in accordance with rule 15 of Order 6 of the Code of Civil Procedure was nto in accordance with law. He, thereforee, directed the petitioner to amend the petition and verify it according to law and also impesed an amount of Rs. 20.00 as costs to be paid by the petitioner to the respondent.

(3) Subsequently, an application was made to the learned Judge for recalling the aforesaid order. This application was also dismissed by an order dated March 28, 1969 and the learned Judge further ordered that the numbers of the paragraphs should also be mentioned in the verification. Mr. Lekhi, learned counsel for the petitioner, concedes that the numbers of the paragraphs are nto mentioned in the verification as made by him in the petition under section 9. His come Act goes on to say 'subject to the other provisions contained in this Act and to such rules as the Hig Court may make in this behalf, all proceedings under this Act shall be regulated, as far as may be, by the Code of Civil Procechure 1908.' Rules under the Hindu Marriage Act 1955 were made by the Punjab High Court and styled the Hindu Marriage (Punjab) Rules 1956. Rule 16 provides that the forms given in the appendix to the rules may, with necessary modifications, be used in the proceedings under the Act. Form B appended to the rules is a form for petition under section 9 of the said Act. At the foto of the form, the form of verification is given and that is;

'THEabove-named petitioner states on solemn affirmation that paras 1 to -of the petition are true to the best of the petitioner's information and belief. Verified at-this-day-'

That the specific provisions of the Code of Civil Procedure can be limited is clear from its section 4. There is, thereforee, no doubt that the Hindu Marriage (Punjab) Rules will have precedence over the provisions of the Code to the extent that

provision has been made in the said rules. Provision having been made in the said rules for verification of petition under section 9, verification of such petitions has to be made in the form prescribed by the rules and not as required by rule 15 of Order 6 of the Civil Procedure Code.

(5) Under these circumstances the learned Judge was not correct in calling upon the petitioner to verify his petition in accordance with order 6 rule 15 Civil Procedure Code and his order dated March 18, 1969 is clearly erroneous and is hereby set aside. Mr. Lekhi states at the Bar that the numbers of the paragraphs have been filled in the petition, as required by the order dated March 18, 1969 and the costs have also been paid. The only order, therefore, in this revision petition is that the verification in the petition was in proper form.

THERE will be no order as to costs.

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