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Gomti Devi Vs. Durga Prasad

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Court : Delhi

Decided On : Nov-29-1990

Reported in : 43(1991)DLT147; I(1991)DMC251

Judge : M.L. Verma, J.

Acts : Code of Civil Procedure (CPC), 1908 - Sections 115

Appeal No. : Civil Revision Appeal No. 737 of 1988

Appellant : Gomti Devi

Respondent : Durga Prasad

Advocate for Pet/Ap. : K.K. Jain and; H.P. Kaushik, Advs

Judgement :

M.L. Varma, J.

(1) This case is listed for final disposal. The records of the Trial Court are here. 'I have heard Learned Counsel for the parties.

(2) The argument of Ms. Kum Kum Jain, Ld. counsel for the petitioner is that the Ld. trial court has exercised the jurisdiction with material irregularity in so-far as it has not given due weightage to the document which is annexed at page 8 of the Revision Petition. I have verified from the records of the trial court that this

document was before the trial court. This document is a certificate dated 21.9.87, from the Office of the Registrar, Co-operative Societies, New Delhi. A perusal of this document shows that the petitioner has not been attending that office since 16.5.1986' This ..clearly establishes that if the petitioner had seized to be in the job in the office of the Registrar, Co-operative Societies, New Delhi, then there would have been no question of this document saying that he had not been attending the office.

(3) The case put up by the respondent in reply to the application of the petitioner herein; claiming maintenance of Rs. 600.00 per month for the children was that he was no longer working in the office of the Registrar, Co-operative Societies', New Delhi and he had left his service since 7.5.1986 and was unemployed. He had further stated that he was working with a petty contractor, who was paying him Rs. 500.00 per month. It is not possible to accept this stand taken by the respondent herein for the twin reasons that, firstly the certificate from the office of rhe Registrar dated 21.9.1987 does not say that the - respondent is no longer in the job and secondly that it appears extremely incredible that a person would leave a job with the government and settle for a job of a temporary nature fetching much lesser remuneration than and no other benefit attached to the government job. In paragraph 12 of the impugned order, the Ld. Trial Court has noticed that he did not understand why after leaving a good job, the respondent herein had taken up a job of the private supervisor with a petty contractor. The case set up by the respondent was that he was under such mental pressure and so upset mentally due to mental problems, that he decided to leave his job with the government. If that was so, it is not intelligible why he took up a job as supervisor with the petty contractor. It is not his case that his services were terminated in the office of the Registrar, Co-operative Societies, New Delhi.

(4) The Trial Court has granted only Rs. 200.00 towards maintenance of three children, all daughters, as against Rs. 600.00 claimed by the petitioner herein. In view of the fore-going and the fact that all three daughters are with the petitioner, the respondent must pay at least Rs. 400.00 per month for the maintenance of the children. I, thereforee, vary the impugned order to the extent that instead of Rs. 200.00 per month, the respondent shall pay to the petitioner Rs. 400.00 per

month. With regard to the arrears, Ms. Jain has fairly conceded that the Respondent should be only burdened with the half of the .amount of the arrears at the rate of Rs. 400.00 from the date of the filing of the Revision Petition.

(5) The arrears work out to Rs. 4800.00 till November, 1990. 50% of this amount is Rs. 2400.00 . The arrears may be paid in six equal Installments, Consequently for the next six months, the respondent will pay to the petitioner Rs. 400.00 Rs. 400.00 and thereafter continue to pay Rs. 400.00 . The Revision Petition is allowed to the extent as indicated above and is disposed of accordingly.

(6) There is no order with regard to the cost.

(7) The record of the Trial Court be sent back immediately. Parties are directed to appear before the Trial Court on 18.12.1990.

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