



**HIGH COURT OF ANDHRA PRADESH**  
THURSDAY ,THE TWENTY FIFTH DAY OF FEBRUARY  
TWO THOUSAND AND TWENTY ONE

**PRESENT**

**THE HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**  
**THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN**  
**CIVIL MISCELLANEOUS APPEAL NO: 402 OF 2019**

**Between:**

1. Gandiboina. KANAKA DURGA W/o. Narayana Rao,  
Hindu, Female, Aged about 58 Years, Housewife/ Dependent, C/o.  
Suryanarayana,  
D.No.7-178, Borram Palem,  
T.Narasapuram Mandal, W.G.Dist

**...PETITIONER(S)**

**AND:**

1. GANDIBOINA. NRAYANA RAO S/o. Nagayya, Hindu, Male, Aged about  
71 years,  
R/o. D.No. 5-121, Near Govt. Hospital, Borrapalem, T.Narasapuramram  
Mandal,  
West Godavari District.

**...RESPONDENTS**

**Counsel for the Petitioner(s): C VENKAIAH**

**Counsel for the Respondents: YALLABANDI RAMATIRTHA**

**The Court made the following: ORDER**



HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

A N D

HON'BLE SRI JUSTICE B.KRISHNA MOHAN

CIVIL MISCELLANEOUS APPEAL NO.402 OF 2019

**JUDGMENT** : *(per Hon'ble Sri Justice B.Krishna Mohan)*

This Civil Miscellaneous Appeal arises against the Order in H.M.O.P. No.214 of 2017 on the file of the Court of Principal Senior Civil Judge at Eluru, West Godavari District dated 08.07.2019 granting decree of divorce and dismissing the relief of permanent alimony.

2. The appellant herein is the petitioner before the trial Court and the respondent herein is the respondent before the trial Court.

3. Heard the learned counsel for the appellant and the learned counsel for the respondent.

4. The appellant herein is the wife and the respondent herein is the husband. The appellant/the petitioner filed H.M.O.P No.214 of 2017 on the file of the Court of Principal Senior Civil Judge at Eluru against the respondent under Section 13 (1) (ia) of Hindu Marriage Act, 1955 seeking grant of divorce and permanent alimony by dissolving the marriage of the petitioner and the respondent dated 12.05.1974 on the ground of cruelty and desertion.



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5. It is the case of the petitioner that she is the legally wedded wife of the respondent and their marriage was solemnized as per Hindu rites and customs at Borrampalem on 12.05.1974 and it was consummated, during their wedlock they were blessed with two daughters and they also got married in due course after they grown up, while so, the respondent started living with one Bommidi Gangamma since 1985 abandoning the petitioner, having come to know the same she placed the matter before the elders and at their instance the respondent handed over a piece of land in an extent of Ac.0-36 cents for the support of their two daughters and the petitioner, subsequently the said property was given to their daughters at the time of marriage towards 'pasupu kumkuma' and the petitioner is left alone without any support and she is taking shelter with the help of her brother Suryanarayana, and the respondent deserted the petitioner without any justifiable reason and there is no possibility of reunion between the petitioner and the respondent. As the petitioner is an illiterate woman, she was unable to sustain herself, hence she got issued a legal notice dated 24.04.2017 to the respondent demanding divorce and payment of Rs.10,00,000/- towards permanent alimony. But the respondent did not reply for the same and kept quiet. Hence she filed the above said O.P. for grant of divorce and permanent alimony.

6. The respondent filed a counter denying the material allegations and contended *inter alia* that the petitioner and her two daughters behaved cruelly against him and pressurized him to



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give all the properties to them, in that connection they filed number of suits against the respondent to grab away his properties situated at Borrampalem village and the said suits are pending before the Courts, the respondent neither deserted nor neglected to maintain the petitioner and as such the question of payment of permanent alimony of Rs.10,00,000/- does not arise and he further denied receiving of the legal notice dated 24.04.2017 also. Hence sought for dismissal of the O.P.

7. Basing upon the above said rival averments and contentions, the trial Court framed the point for consideration as follows :\_

***“Whether the petitioner is entitled for grant of decree of divorce and permanent alimony?”***

8. During the course of trial, PWs.1 and 2 were examined on behalf of the petitioner and Exs.P1 to P9 were marked. For the respondent RW1 was examined and no document was marked.

PW1 is the petitioner herself and PW2 is an independent witness of the petitioner. RW1 is the respondent himself. Ex.P1 is the Lagna Patrika of the petitioner and the respondent, Ex.P2 is the Office copy of the legal notice dated 24.04.2017, Ex.P3 is the Aadhaar Card of the petitioner, Ex.P4 is the certified copy of the partition list dated 22.10.1989 executed between the respondent and his brothers, Ex.P5 is the Adangal Pahani dated 04.01.2019 of an extent of Ac.0-16 cents, Ex.P6 is the Adangal Pahani dated 31.12.2018 of an extent of Ac.0-05 cents, Ex.P7 is the Adangal



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Pahani of Ac.0-04 cents dated 31.12.2018, Ex.P8 is the 1B Adangal Copy and Ex.P9 is the Adangal Pahani of Ac.1-15 cents dated 31.01.2019.

9. Basing upon the evidence on record the trial Court came to a conclusion that the respondent has willfully, intentionally and deliberately neglected her and deserted her without any justifiable cause and there is no possibility of reunion and as such she is entitled for grant of decree of divorce by dissolving the marriage. But on point of grant of permanent alimony the trial Court came to a conclusion that the petitioner could not prove the quantum of income being derived by the respondent from the properties and as such she is not entitled to claim any permanent alimony i.e., life maintenance for the present from the respondent observing further that there is no legal bar to the petitioner to work out for other remedies against the respondent by way of filing a separate civil suit claiming life maintenance/permanent alimony. In the result, the trial Court granted decree of divorce by dissolving the marriage of the petitioner and the respondent dated 12.05.1974 and dismissed the claim of grant of permanent alimony vide its Judgment dated 08.07.2019.

10. Aggrieved by the same, the petitioner filed this Civil Miscellaneous Appeal No.402 of 2019 before this Court questioning the refusal of grant of permanent alimony.



11. The learned counsel for the appellant contended that the trial Court miserably failed in refusing to grant permanent alimony to the petitioner - wife in spite of showing that the respondent has got sufficient means by way of landed properties while granting decree of divorce on the ground of cruelty and desertion.

12. The trial Court erred in not awarding maintenance for the divorced wife when it is obligated for the respondent - husband to maintain her even after grant of divorce under law. Per contra, the learned counsel for the respondent submits that the trial Court is justified in rejecting the claim of permanent alimony as she could not establish what is the income being derived by the respondent on the said landed property.

13. Upon perusal of the Judgment of the trial Court and the material available on record it is to be seen that the respondent even before and after the desertion maintained the petitioner and her two daughters and performed the marriages of the said daughters at the intervention of the elders by giving some portion of the land towards their 'pasupu kumkuma'. That apart it is the specific case of the respondent that the petitioner and their daughters committed cruelty against him in order to grab his properties and filed some civil suits against him. That itself shows he has got sufficient means and support to maintain himself and other family members also. Anyhow, it is the duty of the respondent/husband to maintain the wife during her life time by



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supporting her financially even after grant of decree of divorce unless she suffers any disqualification under law to claim such relief. The trial Court committed an error in observing that the petitioner could not establish the quantum of income derived out of the said properties by the respondent and on that ground alone it ought not have rejected permanent alimony as the law circumscribes to decide about the issues of grant of divorce and permanent alimony together in the same O.P. Since it is the duty of the husband to pay maintenance for the divorced wife as per law the trial Court ought to have fixed some reasonable amount towards maintenance of the petitioner - wife basing upon their social and economic status and standard of living. The trial Court did not grant any amount towards permanent alimony. The order of the trial Court dated 08.07.2019 is to be set aside to the extent of denying maintenance to the petitioner-wife-appellant herein in the interest of justice.

14. Accordingly this Civil Miscellaneous Appeal is partly allowed and keeping in view of the above said circumstances and considering the present day sky rocketing prices, we consider that a sum of Rs.10,000/- per month is reasonable amount to grant towards maintenance of the petitioner. The respondent is thus directed to pay Rs.10,000/- (Rupees Ten thousand only) per month to the petitioner towards permanent alimony for her life and once in five years, she is at liberty to claim an increase of the said amount by filing an appropriate application before the Court



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below concerned. The petitioner is declared entitled for the above said monthly maintenance amount with effect from the date of petition. The respondent shall pay the arrears from the date of petition till this date within 3 months from today and he shall continue to pay in the first week of every month, at the rate of Rs.10,000/- per month towards maintenance w.e.f. 01.03.2021 without any default.

15. Accordingly, the Civil Miscellaneous Appeal is partly allowed with no costs.

As a sequel thereto, miscellaneous petitions, if any pending in the CMA, shall stand closed.

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JUSTICE U. DURGA PRASAD RAO

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JUSTICE B. KRISHNA MOHAN

Date: 25-02-2021.  
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