



HIGH COURT OF ANDHRA PRADESH
WEDNESDAY ,THE FIFTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
CIVIL REVISION PETITION NO: 1527 OF 2023

Between:

1. S.SARASWATHI S/o.G.Sudhakar Naidu,
Aged about 40 years,
R/o.Arigavaripalle Village,
Gudiyatham Taluk, Vellore District,
Tamilnadu State.

...PETITIONER(S)

AND:

1. P.INDRASENA @ P.V. NAYAKULA @ P.VEERANAYAKULU
S/o.P.Nagaraju Naidu,
Aged about 41 years,
Working in BSF, CT, D
C/o.56 APO, HQ, 119 Battalion,
Permanently residing at Thirumalaiahgaripalle Village,
Irala Mandal, Chittoor District.

...RESPONDENTS

Counsel for the Petitioner(s): C JHANSI RANI

Counsel for the Respondents:

The Court made the following: ORDER

**HIGH COURT OF ANDHRA PRADESH**

* * * *

CIVIL REVISION PETITION No.1527 OF 2023

Between:

P. Indrasena @ P.V. Nayakulu @ P. Veeranayakulu

.....Petitioner.

AND

S. Saraswathi.

.....Respondent

DATE OF JUDGMENT PRONOUNCED:05.07.2023**SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**

- 1. Whether Reporters of Local newspapers may be allowed to see the Judgments?* Yes/No
- 2. Whether the copies of judgment may be marked to Law Reporters/Journals* Yes/No
- 3. Whether Your Lordships wish to see the fair copy of the Judgment?* Yes/No

RAVI NATH TILHARI, J



*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI**
+ CIVIL REVISION PETITION No.1527 OF 2023

% 05.07.2023

Between:

P. Indrasena @ P.V. Nayakulu @ P. Veeranayakulu

.....Petitioner

And

\$ S. Saraswathi.

.....Respondent

! Counsel for the Petitioner : Smt C. Jhansi Rani

^ Counsel for the respondent : Nil

< Gist :

> Head Note:

? Cases Referred:

¹ 2018 SCC OnLine All 5863



THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION No.1527 OF 2023

JUDGMENT:

Heard Smt C. Jhansi Rani, learned counsel for the petitioner.

2. This civil revision petition has been filed under Article 227 of the Constitution of India for a direction to the learned Principal Senior Civil Judge, Chittoor to consider and decide the petitioner's application being I.A.No.52 of 2022, and only thereafter to proceed further in H.M.O.P.No.52 of 2020, after setting aside the impugned order dated 13.06.2023..

3. Considering the nature of the controversy and the order proposed to be passed, this petition is being disposed of finally, at this stage, dispensing with the notice to the respondent.

4. The respondent (husband) filed H.O.M.P.No.52 of 2020 seeking divorce from the petitioner (wife). The petitioner filed I.A.No.52 of 2022 under Section 24 of the Hindu Marriage Act, 1955 (for short, "the Act, 1955"). She requested for disposal of her application and took objection that the trial of the main case cannot be proceeded, till the disposal of I.A.No.52 of 2022.



5. The learned trial court vide the impugned order took the view that if any interim maintenance had been granted under Section 24 of the Act, 1955 and if the husband had failed to pay the same there was point in the objection that until the order of interim maintenance was complied with, the Court could not proceed with the trial in the main case. It has also observed that the said objection was not taken by the wife when the P.Ws. 1 to 3 were present in the main H.M.O.P. for cross-examination, till 26.04.2023.

6. Learned counsel for the petitioner submits that the application under Section 24 of the Act, 1955, is required to be considered and decided first. She submits that the ground of rejection of I.A.No.52 of 2020 is not sustainable.

7. I have considered the submissions advanced and perused the material on record.

8. Section 24 of the Act, 1955 provides as under:

“24. Maintenance pendent lite and expenses of proceedings:-

Where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and



monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable.

Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be.”

9. The very object and the purpose of Section 24 of the Act, 1955, is to consider to grant pendent lite maintenance and expenses of the proceedings, to enable the party respondent, to effectively participate in the proceedings. If the main case is proceeded with and I.A. under Section 24 of the Act, 1955 is kept pending for disposal, the same would frustrate the very legislative intent and defeat the object in many cases, the party respondent (mainly the wife) may not be able to effectively defend, due to paucity of funds to meet the expenses of the proceedings.

10. In **Madhu Mishra and another vs. Prem Kumar Mishra**¹, the Allahabad High Court held that on a plain reading of Section 24 of the Act, 1955, there remains no doubt that the maintenance and cost is awarded in favour of complaining spouse (husband or wife), who is unable to maintain himself or

¹ 2018 SCC OnLine All 5863



herself, as the case may be, during pendency of any proceedings under the Hindu Marriage Act, 1955. The object of Section 24 of the Act, 1955 is to protect the weaker spouse and particularly, if it is wife and to ensure that the indigent litigating spouse is not handicapped in defending or prosecuting the case for want of money. This is why courts have always insisted that whenever the application is made under Section 24 of the Act, 1955, it must be disposed of before any further steps are taken in the main case.

11. It is apt to reproduce para 16 of **Madhu Mishra** (supra) as under:

“16. On a plain reading of [Section 24](#) of the Act, 1955, there remains no doubt that the maintenance and cost is awarded in favour of complaining spouse (husband or wife), who is unable to maintain himself or herself, as the case may be during pendency of any proceedings under the [Hindu Marriage Act](#), 1955. The object of [Section 24](#) of the Act, 1955 is to protect the weaker spouse and particularly, if it is wife and to ensure that the indigent litigating spouse is not handicapped in defending or prosecuting the case for want of money. This is why Courts have always insisted that whenever the application is made under [Section 24](#) of the Act '1955, it must be disposed of before any further steps are taken in the main case. However, life of such order is for a limited period namely during the pendency of the substantive petition under the Act, 1955. The order under [Section 24](#) of the Act, 1955 does not decide any issue between



the parties either in the substantive petition or in the application under [Section 24](#) of the Act, 1955 except the question of quantum of maintenance and cost, which may be awarded to the indigent litigating spouse during the proceeding, for the object as aforesaid as may be seen to be reasonable to the Court.”

12. Consequently, the view taken by the learned trial court that only if the maintenance was awarded for pendent lite and the same was not paid, the objection could be taken, is legally erroneous and unsustainable. The learned trial court must have decided I.A.No.52 of 2022 first before proceedings further in the main case.

13. The impugned order deserves to be and is hereby quashed.

14. The learned Principal Senior Civil Judge, Chittoor is directed to first consider and decide the petitioner’s application I.A.No.52 of 2022, before proceeding further with H.M.O.P.No.52 of 2020, with due opportunity to the respondent.

15. The learned trial court shall make endeavour to decide I.A.No.52 of 2022 on the next date i.e 13.07.2023 (as pointed by the learned counsel, to be the next date), and in any case positively within three weeks from the date the copy of this judgment is placed before the said Court, particularly.



16. The petitioner shall cooperate in disposal of I.A.No.52 of 2022 and shall not seek unnecessary adjournment.

17. It is clarified that this Court has not observed anything on the merits of the I.A.No.52 of 2022, i.e whether the petitioner is or is not entitled for maintenance pendent lite and the expenses of the proceedings.

18. Civil Revision Petition is allowed in the aforesaid terms.
No order as to costs.

Consequently, the miscellaneous petitions, if any, pending in the petition shall stand closed.

RAVI NATH TILHARI, J

Date:05.07.2023

Note:

L.R copy to be marked.

B/o.

Gk



THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

CIVIL REVISION PETITION No.1527 OF 2023

Date:05.07.2023

Gk