

Smt. T.Gayatri Devi vs Dr.Tallepaneni Sreekanth on 5 August, 2013

Equivalent citations: AIR ONLINE 2013 SC 202, (2001) 5 JT 567 (SC), (2013) 10 SCALE 421, (2013) 3 DMC 304, (2013) 4 CURCC 218, (2013) 4 JCR 209 (SC), (2013) 4 SCT 692, (2013) 5 ALLMR 918, (2013) 5 ALL WC 5060, (2013) 6 BOM CR 119, (2014) 102 ALL LR 247, (2014) 133 ALLINDCAS 132, (2014) 2 CAL HN 158

Bench: Pinaki Chandra Ghose, Gyan Sudha Misra

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6721 OF 2013
(@ Special Leave Petition (C) No. 28462/2012)

SMT. T.GAYATRI DEVI

Appellant

VERSUS

DR.TALLEPANENI SREEKANTH

Respondent

O R D E R

Leave granted.

This appeal has been filed challenging the order passed by the High Court of Judicature of Andhra Pradesh at Hyderabad dated 23.07.2012 by which the learned Single Judge was pleased to reject the petition filed by the appellant for transfer of a divorce proceeding instituted by the respondent-husband bearing O.P. No. 1256/2011 which is pending trial in the Family Court, Hyderabad to the Family Court at Kakinada.

The High Court appears to have rejected the petition essentially on the ground that the appellant-wife is not a student depending upon her parents and is stated to be employed in a private

sector as Company Secretary and, therefore, the High Court held that it was not a case of a destitute woman depending on the charity of her parents and taking shelter in her parental house so as to allow the transfer of the divorce proceeding on the ground that she could not afford the expenditure of travel and accommodation at Hyderabad.

We find the approach of the High Court and the reasons assigned clearly unsustainable as the High Court appears to have lost sight of the fact that the respondent-husband on the one hand has filed a divorce proceeding against the appellant-wife and further expects the same to be tried at a place of his choice, which is Hyderabad. The High Court refused to transfer it to the place where the wife is working on the ground that the petitioner- wife is not an indigent lady and she is capable of contesting the suit by undertaking journey from Kakinada to Hyderabad. The learned Single Judge has completely overlooked the implication of this view as on the one hand the appellant-wife would be expected to contest the divorce proceeding to her detriment and at the same time would have to undertake the journey from Kakinada to Hyderabad which is bound to affect discharge of her professional duties where she is working as apart from the journey she would also have to seek leave which surely would affect her performance in the company further and put her job at risk. The import of the order clearly is that on the one hand the appellant-wife should live alone, maintain herself by living at her parents place and on the top of it give more attention to contest the divorce proceeding rather than looking to her job on which she is surviving in absence of any support from her husband who not only seeks a decree of divorce but also at convenience by choosing a place of his choice to secure a decree of divorce.

Considering the implication of the aforesaid situation and circumstance, the view taken by the High Court refusing to transfer the case is fit to be struck down as illegal, devoid of practical fallout and wisdom.

We, therefore, set aside the order passed by the High Court, allow this appeal and permit the transfer of the divorce proceeding along with its records bearing O.P. No. 1256 of 2011 from the Family Court, Hyderabad to the Family Court, Kakinada.

.....J. (GYAN SUDHA MISRA)J. (PINAKI CHANDRA GHOSE) NEW DELHI AUGUST 05, 2013 ITEM NO.62 COURT NO.12 SECTION XIIA S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS Petition(s) for Special Leave to Appeal (Civil) No(s).28462/2012 (From the judgement and order dated 23/07/2012 in CMP No.89/2012 of The HIGH COURT OF A.P AT HYDERABAD) SMT. T.GAYATRI DEVI Petitioner(s) VERSUS DR.TALLEPANENI SREEKANTH Respondent(s) (With prayer for interim relief and office report) Date: 05/08/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE GYAN SUDHA MISRA HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE For Petitioner(s) Mr. M. Vijaya Bhaskar,Adv.

For Respondent(s) Mr. Aniruddha P. Mayee,Adv.

UPON hearing counsel the Court made the following O R D E R Leave granted.

Appeal is allowed in terms of the reportable signed order.

(NAVEEN KUMAR)
COURT MASTER

(S.S.R. KRISHNA)
COURT MASTER

(Reportable signed order is placed on the file)