

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

TUESDAY, THE FIFTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

CIVIL REVISION PETITION NO: 4263 OF 2013

Petition under Article 227 of the Constitution of India aggrieved by the Decree and the Order dated 27-06-2013 made in I.A. No. 918 of 2010 in O.P. No. 1503 of 2010 on the file of the Court of the Judge, Family Court, City Civil Court, Hyderabad.

Between:

Sreenivas Motupalli, S/o. Late M. Venkataratnam, Aged about 53 years, R/o. 265 N Road No.10, Jubilee Hills, Hyderabad

...Respondent / Respondent / Petitioner

AND

Anjana Taggarse Motupalli, W/o. Sreenivas Motupalli, Aged 43 years, Occ. Lawyer, R/o. 265 N, Road No.10, Jubilee Hills, Hyderabad 33

...Respondents / Petitioner / Petitioner

I.A. NO: 1 OF 2013(CRPMP. NO: 5787 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the order dt. 27/6/2013 passed in IA 918 of 2010 in O.P. 1503 of 2010 by the learned Judge, Family Court, City Civil Court at Hyderabad pending disposal of the CRP.

IA NO: 1 OF 2024

Petition under Section 151 CPC, Section 340 and 195 CrPC and Article 227 of the Constitution of India praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to i) dismiss the above CRP by refusing to grant the relief sought therein for failure to provide the actual and present residential address' as the 'registered address'

required as per Order 6 Rule 14A of the CPC, and for the intentional acts of perjury relating to the actual residential address, for failure to pay any maintenance, and also as lacking in merits. ii) to initiate criminal proceedings and refer the same to a court of competent jurisdiction for trial, in order to hold the petitioner accountable in law for his acts of perjury, being intentional false representation to mislead the Hon'ble Courts, to benefit himself, in giving the address of the shared household as his present residential address when he has not resided there for a period of 14 years.

Counsel for the Petitioner : Sri D Jagadeshwar Rao

Counsel for the Respondent : Sri Deepak Misra

The Court made the following Order :

THE HON'BLE SMT.JUSTICE P.SREE SUDHA

Civil Revision Petition No.4263 of 2013

ORDER:

The revision petition is filed against the decree and order dated 27.06.2013 passed in I.A.No.918 of 2010 in O.P.No.1503 of 2010 by the Judge, Family Court, City Civil Court at Hyderabad.

2. An application is filed by the petitioner against the respondent before the trial Court under Section 94(e) and Section 151 of CPC, Section 1908 R/w. Order 39, Rule 1 and Sections 20 and 23 of Protection of Women from Domestic Violence Act, 2005 R/w. Section 24 of Hindu Marriage Act, 1995 to direct the respondent to pay to the petitioner and to the children interim maintenance of Rs.1,00,000/- (Rupees One Lakh) per month pending disposal of the O.P aside from salaries of the staff employed for the matrimonial house as at present paying them as is done at present.

3. Parties herein referred as petitioner-wife, respondent-husband as arrayed in the trial Court for the sake of convenience.

4. It is contended by the petitioner that marriage of petitioner and respondent was performed on 01.01.2000 and they are blessed with two daughters on 02.03.2001 and 29.04.2002. It is further contended by the petitioner that

she is daughter of Late Dr.Kishore Taggarse and Dr. (Mrs.) Sudha Taggarse and also stated that she belongs to a well educated and an affluent family and was brought up at their home in Himayathnagar, Hyderabad. She stated that she went to study in Bangalore and was a top ranking student in the University, won national level awards and was selected to represent India twice in moot Court competitions and sponsored by the Government of Karnataka, she was admitted in Oxford University on a total scholarship base and she has also been invited as Judge, Moot Court competitions in National Law School at Bangalore, NALSAR at Hyderabad and for the Bar Council of India Moot Court Competitions. She further stated that she began to practice law in Hyderabad in 1991 and also a practicing lawyer with a standing of 19 years and also stated that she represented many of the reputed clients and enclosed the list.

5. It is further contended by the petitioner that respondent is a businessman and he was Managing Director of Krishna Godavari Power Utilities Limited (KGPUL) and also stated that respondent is the Director of a software company and Mining company as well but she did not know about the details of business as he refused to share the information from the beginning. Petitioner further stated

that she was managing the house with her earnings. It was further contended by the petitioner that father of the respondent is a retired bureaucrat and business of the respondent is joint family business but no salary was paid to the respondent for around seven (07) years from the date of the marriage but respondent is the major stock owner having 80% share of the company in his name and also stated that father of the respondent is "Karta" of the joint family. It was further contended by the petitioner that when she intended to live separately respondent alleged that she was characterless and further stated that petitioner was possessive and had low self-esteem and leading her to emotional, financial, physical abuse and neglected herself and her children and petitioner has also explained about the incident happened in April, 2006 and further stated that to trouble her and to make her inconvenient she was forced to attend the works of maid in her in-laws house by removing the maid in their house. She further contended that respondent was habituated to drinking and smoking before the marriage but he quit the habits from the year 2000 till about 2003-2004. Petitioner stated that in August, 2010, the respondent informed the petitioner through an Advocate that he has sold the said land and house to his father and

also gifted the said property on 30.03.2000 and the said gift deed is a sham document. She stated that respondent signed personal securities as a Director of the Company and also stated that she is in fear that if due to the mismanagement of respondent they may suffer losses and also under fear that they may lose their assets and home to the creditors. Petitioner stated that transfer of the matrimonial home located in Plot No.265-N, Road No.10 of Jubilee Hills, Hyderabad clearly mentioned as A-schedule property is a sham and nominal document and also stated that whereabouts of respondent not known from 17.09.2010 to 22.09.2010 and he never gave any explanation about long absence and she further detailed the incident dated 03.07.2010 and also incident happened in the first week of September, 2010. It seems that her in-laws and responder were also residing in different floors of the same house but presently both of them vacated and she is residing along with her children.

6. In a counter filed by the respondent it is stated that petition filed under the provisions of the Protection of Women from Domestic Violence Act is not maintainable under law before this Court for lack of jurisdiction as Special Courts have been established under the D.V.C Act. He

further stated that petitioner sought for Rs.1,00,000/- per month under this present petition from the respondent without giving any actual expenditure that she is incurring towards maintaining the children is an imaginary amount which has no basis and no supporting documents. It is further stated by the respondent that he never shirked his responsibility to maintain his children and he has also paid school fees for the children and also stated that he is paying Rs.10,000/- every month towards savings for the children in I.C.I.C.I Prudential Life Insurance for the last many years and stated that respondent is quite willing to support the maintenance of the children. Respondent further stated that petitioner is a lawyer practicing from past 19 years and earning handsome amount and she has properties both movable and immovable, fetching handsome rents, and that she is not dependant on anybody and she requires no support from him for her survival. It is also stated that she has purchased expensive SCORPIO SUV apart from her Wagon-R Car and a Honda Unicorn Motor bike. He further stated that petitioner suffers a serious personality disorder, and has been in intermittent treatment for that disorder and therefore, requested this Court to dismiss the petition.

7. Petitioner filed a rejoinder and stated the details of the amount claimed by her towards interim maintenance which reads as follows:

	Rupees
Groceries	15,000/-
Salaries	
Cook	4,000/-
Maid (for home)	4,000/-
Maid (for plot and building)	4,000/-
Gardening labor approx	4,000/- approx.
Errand boy/assistant	5,000/-
Watchman (2 for day and night)	14,000/- in aggregate for 2
Driver	4,500/- approx.
Petrol	
Medical expenses	3,000/- approx.
Expenditure for plumbing, electrical	1,000/- approx.
Expenditure (riding, gym, music)	7,600/- (3,800/- each child)
Clothes	2,000/- approx.
Toys, Board Games, Books	5,000/- approx.
Entertainment	5,000/- approx.
Electricity bill (3 floors)	10,000/- approx.
Water Supply	1,500/- approx.
Cooking gas	800/- approx.
Milk	1,500/- approx.
Travel	10,000/- as an average p.m. for a holiday once a year to some hill station for about ten days or so.

<i>For Savings</i>	<i>10,000/- per month being the saving invested every month on an average by me, his responsibility being greater, at least the above figure ought to be matched by him, if not exceeded considering his claims to have concern for his children's welfare</i>
<i>Aggregate</i>	<i>1,20,900/- (Rupees one lakh twenty thousand nine hundred only). As against this the claim for interim maintenance is only Rs.1,00,000/- p.m. (School fee has not been added as that was paid by the respondent.)</i>

8. Petitioner further admitted that respondent started paying the school fees of the children (approximately Rs.30,000/- per child per annum) only in the last two years after the parties started matrimonial counseling with Dr.Prasada Rao, of Aasha Hospital, Banjara Hills. She stated that previously petitioner took care of the financial needs of the children, including the school fees and also

stated that respondent had no insurance policies, mutual funds, any savings and it was only on the petitioner's insistence, again following counseling, respondent started paying Rs.5,000/- per month towards some ICICI Life Insurance and committed several defaults in the first few months itself and also stated that the conduct of the respondent shows that he is evading parental responsibilities. Petitioner further stated that she was balancing the responsibility of home maker, mother and an advocate and also stated that her mother on seeing her financial duress transferred two flats at Adarsh Nagar, Hyderabad in the year 2008 and the rents are being put into fixed deposits in the name of the minor children. She stated that respondent as a father is under a legal obligation to take care of his children and she stated that she purchased the vehicles on loan and cleared the same, she purchased all the house hold items with her own savings. She stated that she teaches her children swimming cycling, badminton and on weekends, she teaches horse riding and she also encourages the children to play basket ball as a team lead she also send her children to music for 4 years in Carnatic music and they have learnt up to Geetams, slokas and bhajans.

9. In a additional counter filed by the respondent he stated that petitioner has been earning a handsome income out of her professional avocation, and had several deposits, and is also getting income from the immovable properties and also stated that he have been paying the school fee, school bus transport for the children, meeting expenses of the club. He further admitted that he is prepared to meet the legitimate expenditure incurred for the children for their activities in the club and shall continue to meet the said expenses, in addition he stated that petitioner herself earning and she has to discharge her obligation towards children in all aspects.

10. In an additional rejoinder filed by the petitioner she stated that respondent never paid school fee for the children, school bus transport and also not met the expenses of the club and also stated that he has not paid any receipts to that extent. She further stated that Jubilee Hills International Club not issued the smart cards to the children as he could not pay the expenses to the club authorities and she was compelled to pay the same. Petitioner contended that respondent smokes cigarettes and also consumes beer, he drives a Toyota Corrolla and is prolonging the matters. She made certain other allegations

against the respondent. She also filed additional rejoinder and both of them filed written statements.

11. In a written statement filed by the respondent he stated that petitioner is a member of the Secunderabad Club, Nizam Club besides being a member of Hyderabad Horse Club.

12. Petitioner relied upon a citation reported in "**Smt.Mamata Jaiswal v. Rajesh Jaiswal**"¹ in which it was held as follows:

"A lady who is fighting a matrimonial petition filed for divorce cannot be permitted to sit idle and put her burden on her husband for demanding *pendent lite* alimony from him during the pendency of such legal petition. Section 24 is not meant for creating any army of such idle persons who would be sitting idle or dole to be awarded by her husband who has got grievance against her and who has gone to the Court seeking relief against her."

Petitioner relied upon another citation reported in "**Vasili Siva Prasad v. Vasili Lakshmi Suseela**"² in which it was held as follows:

"The benefit of Section 24 of Hindu Marriage Act, 1955 is no avail if both parties are indigent or affluent."

¹ MANU/MP/0178/2000

² 1981 (1) ALT 215

13. Respondent further stated that he is currently unemployed but he is willing to pay interim maintenance of the children. Learned counsel for the respondent mainly contended that respondent has no objection regarding maintenance granted by the trial Court to the children but he is not inclined to pay maintenance to the wife as she has reasonable financial resources. Petitioner stated that due to harassment of the respondent she lost the source of income from the profession.

14. Respondent has given all the details of income and also stated that it is his moral duty to maintain wife and children as per the citation reported in "**Prem Kumari v. Om Prakash**"³ in which it was held as follows:

"There is social and moral obligation of the petitioner to maintain his wife and child and not to leave them at the mercy of her parents. Admittedly the wife is a qualified lady and even if she is making an attempt to earn some money to bring up her child in a better way, this would not be a factor which would disentitle her from claiming maintenance for herself as well as for her child from the husband because she is entitled to live the same life in terms of social and financial status which she would have enjoyed if she continued to live

³ AIR 2000 (P&H) 311

with her husband. Whether she was forced to leave the matrimonial home because of the cruelty of the husband or was it her act of desertion is a matter which has to be decided by the court at the time of final decision of the main petition.”

15. It is further contended that petition is not maintainable under Section 24 of the Hindu Marriage Act as the provisions of Section 24 of the Act provides support to non-earning spouse it reads as follows:

“Section 24 allows Court to order a spouse to pay for the expenses of proceeding and provide monthly support to a spouse who does not have sufficient income.”

16. The Court is required to take into consideration the income of the parties before deciding the quantum of interim maintenance and it was also mentioned that Section 24 of the Act entitles not only the wife but also husband to claim *pendent lite* if he has no independent source of income and leaned counsel for the respondent/husband also contended that petitioner has to file separate application for maintenance under Section 20 of Hindu Adoption and Maintenance Act, 1956. In a citation reported in “**Alok Kumar Jain v. Purnima Jain**”⁴ it is stated that under Section 24 of Hindu Marriage Act is well crystallized and

⁴ 2007 (96) DRJ 115

following factors can be culled out as required to be kept in mind while awarding interim maintenance:

- 1. Status of the parties.*
- 2. Reasonable wants of the claimant.*
- 3. Income and property of the claimant.*
- 4. Number of persons to be maintained by the husband,*
- 5. Liabilities, if any, or the husband.*
- 6. Amount required by the wife to live a similar lifestyle as she enjoyed in the matrimonial home keeping in view food, clothing, shelter, educational and medical needs of the wife and the children, if any, residing with the wife.*
- 7. Payment capacity of the husband."*

17. Petitioner herein made several allegations in the Divorce O.P which are to be decided after adducing of evidence by both the parties in the Divorce O.P as such this Court is not going into those aspects in detail. The issue before the Court is only regarding the granting of interim maintenance to wife and children before the trial Court. The respondent has no objection for granting of interim maintenance to the children and he is ready to pay the said amount but he is not inclined to pay maintenance to the petitioner as she is well educated and having so many properties and also having professional income. Petitioner herself in her application stated regarding her qualifications, abilities and also regarding her professional career of 19

years she has represented many reputed clients as such it can be presumed that she has well established professional career. She also admitted that she was taking care of entire family with her own earnings. She herself stated that her mother gave two house properties in her name and she also stated that respondent transferred house at Jubilee Hills in favour of his father but still she is residing in the said house. Previously respondent was residing in one floor and in-laws in another floor but presently petitioner is residing with her children in the entire house property. She also stated that she is member of several clubs and she was teaching extracurricular activities in the clubs to her children. Even in the application, she stated that he was already paying the fee apart from that she requires interim maintenance of Rs.1,00,000/- and all the details of the expenses were given in the above paragraphs and it was also an admitted fact that respondent herein paid school fee and also incurred the expenses of the club for the children for the certain period. Respondent filed letter of withdrawal of nomination dated 03.03.2010 and extract of minutes of meeting of Board of Director of Krishna Godavari Power Utilities Ltd., held on 13.03.2010 to say that presently he is not working as Director. Even petitioner stated that he was

not paid salary for seven years after the marriage as the company is a joint family company and father of the respondent is karta of the family. Petitioner did not state about the income details of the respondent on the ground that he has hidden certain factors from the beginning of the marriage. Trial Court granted interim maintenance of Rs.20,000/- per month to the petitioner and Rs.15,000/- per month to each of the minor children i.e., Rs.50,000/- in total and also directed to pay the said amount from the date of petition i.e., from November, 2010 to be payable on or before 6th of every month till the disposal of the O.P. The said order was passed on 27.06.2013 against the said order, this revision petition is preferred on 27.09.2013 and it is brought to the notice of the Court that so far he has not paid any maintenance to the children and not complied the order of the trial Court. Previously, women were financially dependent on the husband as they are not educated and not earning as such it was mentioned in the Laws that she should be maintained by the husband but the days are changed women are also highly qualified, working and earning and they can maintain themselves, therefore, it cannot be said that they are dependent on husband. Even in this case, the petitioner/wife is not dependent on

respondent/husband as such granting of interim maintenance to her by the trial Court is not on proper appreciation of the fact and is liable to be set aside. Regarding the maintenance granted to the children this Court finds no reason to interfere with the same. Now children became majors. However, this Court is inclined to direct the respondent to pay entire arrears of maintenance till they attain the age of majority.

18. In the result, civil revision petition is partly-allowed by confirming the maintenance granted by the trial Court in favour of the children but maintenance granted in favour of the wife by the trial Court is set aside and petitioner is directed to pay the arrears of maintenance amount within a period of two (02) months from the date of this order. There shall be no order as to costs.

//TRUE COPY//

Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Judge, Family Court, City Civil Court, Hyderabad
2. One CC to Sri D Jagadeshwar Rao, Advocate [OPUC]
3. One CC to Sri Deepak Misra, Advocate [OPUC]
4. Two CD Copies

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HIGH COURT

DATED:15/10/2024



ORDER

CRP.No.4263 of 2013

PARTLY ALLOWING THE CRP

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25/10/24*