

SUPREME COURT OF INDIA

M. Aruna Kumari

Vs.

A.V. Janardhana Rao

(G Pattanaik, U Banerjee and N S Hegde JJ.)

19.10.2000

ORDER

1. On an application being filed by the respondent husband under Section 13(1-A)(i) of the Hindu Marriage Act for dissolution of the marriage on the ground that there had been no cohabitation between the spouses after the decree for judicial separation was passed on 23.12.1995 and the date of application i.e. 28.12.1996, the learned trial Judge had dismissed the said application.
2. On an appeal being carried, the Division Bench of the Andhra Pradesh High Court considered the entire evidence on record and came to hold that there has been no resumption of cohabitation between the parties for a period of one year from the date of the decree for judicial separation and accordingly granted the decree for divorce allowing the appeal. It is this judgment and order of the Division Bench of the Andhra Pradesh High Court which is the subject-matter of challenge in this special leave application.
3. Ms Amareswari, appearing for the petitioner wife vehemently contended that the evidence on record has not been scrutinized at all by the High Court while sitting in appeal and therefore the ultimate finding should not be binding on this Court and the matter could be remitted to the High Court for reconsideration of the evidence on record. She also further stated that there is ample evidence on record to indicate that the husband had visited the wife after the decree for judicial separation and had been staying with her which falsifies the pleas of the husband that whenever he had gone to the house of the wife he found the same to be locked. But, having examined the impugned judgment and also the evidence which has been placed on record, we are unable to persuade ourselves to come to a conclusion that the finding of the High Court can be said to be a finding on no evidence. In that view of the matter, we see no justification for our interference with the impugned judgment of the High Court in exercise of power under Article 136 of the

Constitution of India. Accordingly, this special leave application stands rejected.

4. While we are dismissing the special leave application, it is brought to our notice that the daughter born out of the wedlock of the petitioner and the respondent husband has come of marriageable age and the respondent had not taken any steps to get her married. The respondent was appearing in person and to our query stated that he is an Auditor in the Office of the Principal Director General of Audit, South Central Railway, Secunderabad and he gets an emolument of Rs. 10,000 per month and that he had already served for more than 30 years. According to him, the daughter herself is earning and therefore it is no obligation of the father to make any arrangement to get her married . though he is willing to offer her his blessings. We think it appropriate that the respondent father should make some provision, if not whole, for the performance of the marriage of his daughter. We quantify the amount at Rs. 50,000 which the respondent should pay for his daughter's marriage. The officer of the respondent be communicated the order of this Court directing him to deduct Rs. 5000 per month from the salary of the respondent for a period of ten months and send the same at the address of the daughter, which the daughter will furnish to the controlling authority of the respondent. Copy of this order be also communicated to the Principal Director General of Audit, South Central Railway, Secunderabad immediately.