
(2004) 02 MP CK 0015

Madhya Pradesh High Court

Case No: First Appeal No. 191 of 1997

Vinay Mugre

APPELLANT

Vs

Vandana

RESPONDENT

Date of Decision: Feb. 5, 2004

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 23 Rule 3
- Hindu Marriage Act, 1955 - Section 9

Citation: (2004) 2 DMC 72

Hon'ble Judges: U.N. Singh, J

Bench: Single Bench

Advocate: A.K. Sethi, for the Appellant; S.A. Mev, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Uma Nath Singh, J.

This first appeal has been filed u/s 96 of the CPC against a judgment dated 9.5.1997 passed by learned IXth Additional District Judge, Indore, in Hindu Marriage Act Case No. 136/1992, whereby the application of the respondent/wife u/s 9 of the Hindu Marriage Act for restitution of conjugal rights has been allowed.

2. It appears from the earlier proceeding dated 25.4.1999 that the parties to the appeal wanted to settle the matter but did not appear before the Court. Thereafter the matter was directed to be listed before permanent Lok Adalat. The matter was adjourned from time-to-time by the Lok Adalat and finally having found no possibility of settlement, on 1.4.2000 the Lok Adalat referred the matter to the Court for consideration. The matter was listed on 28.4.2000 for early hearing of the appeal, which was dismissed being devoid of merits. Another application for early hearing was also dismissed on 2.7.2001. On 19.11.2003 the matter was directed to be listed for final hearing. On 15.12.2003

learned Counsel for the parties again submitted that there was a possibility of compromise and hence requested for a date for reconciliation. On 8.1.2004 the parties prayed for and were granted time to file an application for compromise. The matter was listed on 4.2.2004 and the parties were present in person. The matter was directed to be listed today on 5.2.2004. It may not be out of place to observe that during the proceedings, the parents of the appellant, present in the Court, were interfering with the settlement of dispute between the husband and wife. The appellant son appeared helpless in resisting his parents' influence and he was indecisive on 4.2.2004 to sign the compromise. On the other hand the respondent wife is willing to stay with the appellant on any terms and conditions, although she appears to have suffered a lot at the instance of her in-laws. The conduct of the parents of the appellant which requires a direction for prosecution and also initiation of contempt proceedings against them is condoned for the present in view of their advancing age and further in the interest of rehabilitation of the couple.

3. It is said that the parties entered into wedlock on 9.12.1989, that they stayed together only for eleven months, that in the said wedlock a son was born who is aged about eleven years, and is also present in the Court, and that the appellant is staying with his parents in his parental house. As the appellant is gainfully employed in a Bank and earning handsome salary and so is the case with the wife who is also employed as a Teacher in Education Department, they can afford a separate accommodation.

4. Thus taking into account the totality of the circumstances and to contain, the interference by the parents in their matrimonial life, it is directed that hereinafter the couple shall stay away from their parents in a separate accommodation and the parents shall never visit the matrimonial home of the parties. However, the parties would be at liberty to visit their parental house. Further the parties shall give the details of their new residence to the Superintendent of Police, Indore, forthwith who shall send the Police Station In-charge of that area once in every month to see that the directions of this Court are properly complied with and the couple is rehabilitated in matrimonial home without any interference. The Superintendent of Police shall submit a report after a year to the Registrar of this Court who shall place the report in Chamber.

5. With the aforesaid directions, the I.A. No. 659/2004 under Order XXIII Rule 3 of the CPC for compromising the dispute is hereby allowed. As submitted by the appellant, the first appeal having become infructuous in view of the compromise is disposed of as not pressed. There shall be no order as to costs. A decree be drawn up accordingly. Record be returned.

Ordered accordingly.