

Umashankar Vs Mayadevi

Court: Madhya Pradesh High Court

Date of Decision: Oct. 26, 1993

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Order 6 Rule 17, 115
Hindu Marriage Act, 1955 â€” Section 13(1)

Citation: (1994) 1 DMC 450

Hon'ble Judges: Asha Ram Tiwari, J

Bench: Single Bench

Advocate: R.S. Tiwari, for the Appellant; Subhada Waghmare, for the Respondent

Final Decision: Dismissed

Judgement

A.R. Tiwari, J.

1. This revision petition, presented u/s 115 of the CPC (for short the "Code") is directed against the order dated 25.8.92 passed by the Third

Addl. Judge to the Court of District Judge, Ujjain in Hindu Marriage Case No. 70-A/90 thereby substantially rejecting the application moved

under Order 6 Rule) 7 of the Code.

2. Briefly stated, the facts of the case are that the husband (the petitioner) filed the petition u/s 13 of the Hindu Marriage Act seeking dissolution of

marriage by a decree of divorce on the ground of desertion and cruelty. The petition was resisted by the non-applicant. On closure of evidence,

the petitioner submitted an application under Order 6 Rule 17 of the Code seeking leave to amend the application for incorporation of the plea of

ailment i.e. epilepsy. The Trial Court accepted the application only partly, as regards the alteration of 13 to 14 and rejected the remaining portion

as contained in the application. Aggrieved by this order, the petitioner has filed this revision.

3. This revision petition was admitted for final hearing by this Court on 17.9.92.

4. By consent of the parties, this revision petition was taken up for final hearing today.

5. I have heard Shri R.S. Trivedi, learned Counsel for the petitioner and Smt. Subhada Waghmare, learned Counsel for the non-applicant.

6. The Counsel for the petitioner submitted that the Court below erred in rejecting the application and thus, failed to exercise jurisdiction vested in

it under law. On the other band, the Counsel for the respondent submitted that the order is just and proper and is not liable to be interfered with in

exercise of revisional jurisdiction. It was pointed out that the necessary pleading was already present in the main petition and as such, there was no

question of permitting the reiteration of the same under the guise of elaboration. The Counsel for the petitioner was, thus, unable to point out any

illegality or infirmity in the order rendered by the Court below.

7. It is well established that the revisional jurisdiction is little and limited and no order can be reversed unless the conditions enumerated u/s 115 of

the Code are satisfied. In this case, there is none.

8. In my view, the application was totally misconceived. It was open to the petitioner to make appropriate prayer for production of additional

evidence on showing sufficient cause for the purpose. The order passed on an application for amendment it not liable to be faulted with.

9. In the circumstances, this revision petition is dismissed. The parties are, however, left to bear their own costs of this revision petition as incurred.

Counsel fee on each side is fixed at Rs. 200/-, if certified.