
(1997) 02 AP CK 0059
In the Andhra Pradesh High Court
Case No : Appeal No. 2053 of 1996

Mariamma Ninan @ Mariamma P. Thomas	APPELLANT
Vs	
K.K. Ninan	RESPONDENT

Date of Decision : 17-02-1997

Acts Referred:

Family Courts Act, 1984 — Section 7(1)

Citation : (1997) 2 ALD 712 : (1997) 2 DMC 210

Hon'ble Judges : S.R. Nayak, J;D. Reddeppa Reddi, J

Bench : Division Bench

Advocate : G.S. Rao, for the Appellant; K. Somakonda Reddy, for the Respondent

Final Decision : Allowed

Judgement

D. Reddeppa Reddi, J.—The petitioner in O.P. (SR) No. 33/96 on the file of the Family Court, Secunderabad, has preferred this appeal against the Order dated 11.7.1996 returning the petition for presentation to the Civil Court.

2. Petitioner is the wife of the respondent. Her petition is for partition of petition scheduled property and separate possession. Her main plea is that she contributed a sum of Rs. 3,00,000/- for constructing the petition scheduled building.

3. It is clear from the impugned order that her petition has been returned mainly on the ground that parties to the marriage can approach the Family Court only "in respect of the property of any nature given at the time of marriage by one of them to the other or on behalf of one of them to the other or the property acquired with the funds given at the time of marriage such as jewellery and land given for Pasupukumkuma by way of gift alone". This reasoning, prima facie, appears to be unsustainable in view of the specific language of Section 7(1) of the Family Courts Act, 1984, which reads as under :

"Jurisdiction-(1) Subject to the other provisions of this Act, a Family Court shall

(a) have and exercise all the jurisdiction exercisable by any District Court or any Subordinate Civil Court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation; and

(b) xxx xxx xxx xxx

Explanation: The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely :

(a) xxx xxx xxx xxx

(b) xxx xxx xxx xxx

(c) a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them.

4. In this view of the matter, we set aside the impugned order and remand the matter to the Family Court, Secunderabad, with a direction to entertain the petition and dispose of the same in accordance with law. No costs.