

HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

MAIN CASE No: C.M.A.No. 430 of 2024

PROCEEDING SHEET

<u>SL. NO.</u>	<u>DATE</u>	<u>ORDER</u>	<u>OFFICE NOTE</u>
1.	01.07.2024	<u>RNT,J</u> & <u>VN,J</u> Heard learned counsel for the appellant. 2. This appeal is filed by the wife challenging the order dated 01.05.2024 passed by the Judge, Family Court – cum – VI Additional District and Sessions Judge, Kadapa, whereby, the appellant's application to set aside the exparte decree under Order 9 Rule 13 of CPC has been rejected. 3. Learned counsel for the appellant submits that on 02.02.2024, the appellant appeared before the Court and on that date, she came to know that an order to proceed exparte was passed on 18.12.2023. He further submits that on 02.02.2024, the respondent led evidence and the matter was posted to 05.02.2024. On 05.02.2024 also the appellant was present and filed a petition seeking permission to engage counsel along with separate petition to set aside the exparte order but the same was returned by the Court though the counsel for husband endorsed 'reported no counter', and on the same date the divorce decree was passed exparte. The appellant's	

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		application to set aside the exparte decree has also been rejected by the order dated 01.05.2024. He further submits that even in the presence of order to proceed exparte dated 18.12.2023, the appellant had the right to lead evidence and also to cross examine the witness. 4. Learned counsel for the appellant submits that the manner in which the ex-parte divorce decree, affecting the status of the appellant, has been passed is contrary to the settled principles of law. The Court should endeavour to decide the case on merits with opportunity of hearing to both the parties. He further submits that the cause as shown in the application supported with the affidavit for setting aside the exparte order was that the respondent son was unwell for which she had to rush the hospital and consequently, she could not appear on 18.12.2023. But the said cause has not been accepted observing that medical certificate was not filed, which is hyper technical approach. 5. The matter requires consideration. 6. Issue notice to the respondent. 7. In addition to the normal mode of service, the appellant is permitted to take out personal	

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		notice to the respondent by registered post and acknowledgment due and file proof of service in the Registry before the next date of listing. 8. Post on 29.07.2024. 9. Till the next date of listing, the operation of exparte decree shall remain stayed. 10. Considering the submissions as advanced and perusal of the record, we call for the report from the Judge, Family Court – cum – VI Additional District and Sessions Judge, Kadapa, on the following points: i) if the appellant was granted opportunity of cross examination of the witness produced by the husband and of leading evidence and ii) the complete docket order proceedings. 11. Let the report be submitted before the next date of listing in sealed cover. 12. Office shall sent the copy of this order to the Court of the Judge, Family Court – cum – VI Additional District and Sessions Judge, Kadapa. _____ RNT,J _____ VN,J AG	