

IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CM(M) No.409/2008 & CM No.4857/2008

% Date of Decision: 31st March, 2008

Sanjay Kumar Gangwal ...Petitioner
Through: Mr. Rakesh Gupta, Advocate

Versus

\$ Sunita Gangwal Respondent
^ Through:

CORAM:
***HON'BLE MS. JUSTICE VEENA BIRBAL**

1. Whether the reporters of local papers may be allowed to see the judgment? Yes
2. Whether the judgment be referred to the reporter or not? Yes
3. Whether the judgment should be reported in the digest? Yes

Veena Birbal, J. (ORAL)

By way of present petition, petitioner/husband has challenged the impugned order dated 3.1.2008 passed under Section 24 of Hindu Marriage Act by which respondent/wife has been granted maintenance @ Rs.1500/- per month from the date of filing of the

application i.e. 19.9.2007 till the disposal of divorce petition. Apart from this, she has been granted litigation expenses of Rs.10,000/-.

Counsel for petitioner has argued that petitioner/husband is earning only Rs.2500/- per month and despite that Rs.1500/- per month has been granted to applicant-wife towards maintenance pendente lite. It is argued that trial court has failed to take into consideration that the husband is living in a rented accommodation whereas respondent-wife is living in a portion of the house belonging to father of petitioner. It is prayed that under the circumstances, respondent-wife was not entitled for any maintenance and the impugned order is liable to be set aside.

I have considered the submissions made and perused the record.

Perusal of record shows that for disposing the maintenance application, apart from considering averments in the application under Section 24 of Hindu Marriage Act and its reply, learned ADJ has also examined the parties on oath. Respondent-wife has categorically

stated that she has no source of income and she has never been employed anywhere. She is financially dependent on her maternal uncle and she also admitted that she is staying in the house of her father in law which has four floors. She has also stated that first floor and second floor have been given on rent by father-in-law and the rental income is Rs.8000-Rs.10,000/- per month. Her husband's family owns ancestral property in Karwan and Dausa in Rajasthan. As against this, husband has stated on oath that he is a painter and undertakes contract for white-wash and is earning Rs.2000-Rs.2500/- per month. Based on the pleadings of the parties as well as statement on oath, learned ADJ has observed that petitioner/husband comes from a family which owns two houses. Petitioner/husband has alleged that earlier he was doing a job and was getting salary of Rs. 3,000/- per month. He has further alleged that after leaving the job he is doing work of painter/white-wash on contract basis and is earning Rs.2,000-2,500/- per month. Learned ADJ has rightly noted that his earnings are much more and he is not disclosing the same intentionally for the disposal of present application and

accordingly the Court has assessed his income as Rs.4000/- per month. Job of painter/white-wash is a highly skilled job. Learned ADJ has rightly assessed his income. Petitioner/husband has also not placed on record any material to show that he is living in a rented accommodation as is alleged. Learned ADJ has rightly rejected his contention in this regard.

Considering the totality, I find no infirmity or illegality which calls for interference under Article 227 of the Constitution of India.

Accordingly, the present petition stands rejected.

Veena Birbal, J.

March 31, 2008
srb