

. \* **HIGH COURT OF DELHI : NEW DELHI**

+ **I.A. No.4491 /2007 & C.S. [OS] No.717 /2007**

Reserved on: 18<sup>th</sup> August, 2009

% Decided on: 25<sup>th</sup> August, 2009

Mrs. Sushila @ Babli & Anr. ...Plaintiffs  
Through : Mr. Anand Yadav, Adv.

Versus

Mr. Rambir Singh ....Defendant  
Through : None

Coram:

**HON'BLE MR. JUSTICE MANMOHAN SINGH**

- |                                                                              |    |
|------------------------------------------------------------------------------|----|
| 1. Whether the Reporters of local papers may be allowed to see the judgment? | No |
| 2. To be referred to Reporter or not?                                        | No |
| 3. Whether the judgment should be reported in the Digest?                    | No |

**MANMOHAN SINGH, J.**

1. Smt. Sushila @ Babli, Plaintiff No.1 and Master Mohit, Plaintiff No.2 have filed the suit for maintenance under Sections 18 and 20 of the Hindu Adoption and Maintenance Act, 1956 and for permanent injunction against Sh. Rambir Singh, husband of plaintiff No.1. The marriage between plaintiff No.1 and defendant was solemnized at Village Phool Siras, Delhi on 9<sup>th</sup> February 1997 as per Hindu rites and ceremonies. The father of Plaintiff No.1 persuaded the plaintiff No.1 to marry the defendant Mr. Rambir Singh who was engaged in transport business and was earning around Rs.10,000/- per month at the time of marriage.

2. It is contended that the defendant at the time of marriage concealed various material facts from the father of Plaintiff No.1. Plaintiff No.2 was born on 1<sup>st</sup> March 1999 out of the wedlock of plaintiff No.1 and defendant. The case of the plaintiff is that after the marriage, the defendant and his other relatives started torturing the plaintiff No.1 and they were making demands of dowry. The father of Plaintiff No.1 also made a payment of Rs.45,000/- on 8<sup>th</sup> February 2001 for the purpose of construction of the house of the defendant. The Plaintiff No.1 has two brothers who are elder to her and both of them are married and also have children. The defendant after marriage insisted that the plaintiff No.1 should bring Rs.2 lakhs from her father otherwise the plaintiff No.1 would not be permitted to stay in the matrimonial house.

3. The case of the plaintiff is that after receiving the compensation of land, another sum of Rs. 1 lakh was paid to the defendant on 30<sup>th</sup> December 2002 for starting the business of building material. However, the defendant and his mother beaten plaintiff No.1 on 19<sup>th</sup> March 2003 while playing Holi. The plaintiff No.1 thereafter made a complaint with the Anti Dowry Cell on 3<sup>rd</sup> April 2003. Before the Anti Dowry Cell, the defendant apologized for his conduct and stated that in future he will keep in mind that the defendant will not demand money, dowry etc from the father of Plaintiff No.1 and he will also return back the loan to the father of Plaintiff No.1 and will also properly maintain his wife and his children i.e. Master Mohit but his behaviour did not change and the defendant again started making

demand for dowry and tortured the plaintiff No.1 and forced the plaintiff No.1 to leave the village in the month of September 2003. Since then the plaintiff No.1 is residing with his father and brothers along with the son i.e. plaintiff No. 2.

4. As per the plaintiff No.1, the defendant kept on threatening the plaintiff and other family members of dire consequences if they continue to keep the plaintiff with them and also demanded further dowry of Rs. 1 lakh from the plaintiff No.1 in September 2006. It is further submitted by the plaintiff that defendant No.1 has not looked after the plaintiffs who are being supported by the father of plaintiff No.1. Since the plaintiff has no source of income whatsoever and there is no property in the name of the plaintiffs, they are totally dependent upon the father of Plaintiff No.1 and the plaintiffs also cannot expect anything from the two elder brothers of Plaintiff No.1, therefore, the present suit has been filed by the plaintiffs.

5. It is also the case of the plaintiff that the defendant has deserted the plaintiffs and he is willfully neglecting the plaintiffs and treated the plaintiff No.1 with cruelty and has also refused to pay any amount for maintenance of the plaintiffs, therefore, the plaintiff No.1 is entitled to maintenance from the defendant as per law.

6. The plaintiffs have also stated that the defendant has inherited property from his father late Sh. Mange Ram at village Jatipur, District Sonapat and the said properties are ancestral and Joint Hindu Family properties in the hands of the defendant. The plaintiff claims an amount of Rs.16,750/- as maintenance towards house rent, house

maintenance such as electricity, water, kitchen expenses, clothing, school and tuition fee and medical charges and other expenses required by the plaintiff. It is submitted that the defendant is also liable to be restrained from selling the said land, therefore, injunction is also sought by the plaintiffs restraining the defendant from selling, transferring or creating any third party interest in any manner over the possession of agricultural land and other properties at Village Jatipur, District Sonapat, Haryana to any one else.

7. On 9<sup>th</sup> May 2007, the court passed the interim order restraining the defendant from transferring, alienating, parting with possession in any manner the property consisting of land comprising in Khewat No.36/35, Khatouni No.53, Khasra No.1/22/2, 1/23, 1/24, 6/3, 6/4, 12/25/2, 13/20,13/21/1 and Khewat No.37/36, Khatouni No.54 & 55, Khasra NO.15/10 and Khasra No29/2/3 to the extent of his share in the said lands as Jamabandi of village Jatipur, Tehsil and District Sonapat, Haryana to the extent of share of Sh.Rambir Singh as per revenue records and house of the defendant in Village Jatipur, Tehsil and District Sonapat, Haryana. Vide order dated 20<sup>th</sup> May 2008, the right of the defendant to file the written statement was closed. The plaintiffs produced the evidence by way of affidavit of plaintiff No.1 who has proved the following documents in support of her case:-

- i) Copy of Notice dated 29<sup>th</sup> January 2001 received by the father of plaintiff and the same is Exhibited as Ex.PW 1/1.
- ii) Copy of complaint dated 3<sup>rd</sup> April 2002 made by the plaintiff to the Dowry Cell exhibited as Ex. PW-1/2.

- iii) Copy of undertaking in writing dated 25<sup>th</sup> June 2003 given by the defendant to SHO Crime Women Cell, Nanak Pura, New Delhi as ex.PW-1/3.
- iv) Copy of complaint dated 22<sup>nd</sup> February 2007 made by the plaintiff to Deputy Commissioner, Women Cell, Nanak Pura, New Delhi exhibited as Ex. PW-1/4.
- v) Copies of some of the receipts of payment of tuition fee of plaintiff No.2 exhibited as PW-1/5/1 to PW-1/5/12.
- vi) Copies of receipt and prescription of the expenses incurred in respect of treatment of plaintiff No.2 exhibited as PW-1/6/1 to PW-1/6/11.
- vii) Copies of revenue records of Village Jati Khurd, District Sonapat, Haryana as Ex. PW-1/7/1 to Ex. PW-1/7/7.
- viii) Case Sheet and X-ray slips of Safdarjung Hospital as Ex. PW-1/8/1 to Ex. PW-1/8/2.

8. I have gone through the pleadings, documents as well as the ex parte evidence produced by the plaintiff. The entire case of the plaintiff has gone un-rebutted. No written statement has been filed by the defendant nor any interest has been shown by the defendant in the matter. Therefore, the suit of the plaintiff is decreed in terms of prayers (a) and (b) of the plaint. With regard to prayer (a), since the plaintiff No.1 has submitted that the defendant is earning Rs 10,000/- per month in the transport business at the time of marriage, I feel it is appropriate that the defendant pays a sum of Rs 7,500/- per month to the plaintiffs as maintenance from the date of filing the suit. The outstanding amount

shall be paid by the defendant within 2 months from today and the defendant shall keep on paying the said amount regularly by 7<sup>th</sup> of each English calendar month . The rest of the prayers are not pressed by the plaintiffs during the course of the final hearing in the matter. The decree be drawn accordingly.

**MANMOHAN SINGH, J**

**AUGUST 25, 2009**  
**SD**