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HIGH COURT OF DELHI AT NEW DELHI

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CM (M) 226/2009

Date of decision : September 10, 2009

ARADHANA SINGH NEGI Petitioner
Through : Mr. P.S. Goindi, Advocate

Versus

DEVENDER MOHAN SINGH NEGI Respondent
Through : Mr. K.C. Jain, Advocate

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CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not?
- (3) Whether the judgment should be reported in the Digest ?

J U D G M E N T

ARUNA SURESH, J. (Oral)

1. This petition under Article 227 of the Constitution of India has been filed by the petitioner impugning the order of the trial court dated 5.2.2009 passed on an application under Section 24 of the Hindu Marriage Act (hereinafter referred to as HM Act) in case

CM (M) 226/2009

Page 1 of 5

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bearing HMA No.386/2008.

2. Respondent has filed a petition seeking divorce against the petitioner under Section 13(1)(i-a) &(i-b) on the grounds of cruelty. In the said petition, petitioner filed an application under Section 24 of the HM Act seeking interim maintenance for herself and for her two minor daughters.
3. The trial court, vide her impugned order dated 5.2.2009 awarded maintenance @7000/- cumulatively to both the daughters of the parties to be paid by the respondent from the date of filing of the application i.e. 28.7.2008 with the directions that the maintenance so awarded shall be paid by the 10th of every month. However, the maintenance as claimed by the petitioner for herself was declined.
4. Learned counsel for the petitioner has argued that trial court did not decide the claim of the petitioner and also did not award any litigation expenses to the petitioner whereas maintenance was sought by the petitioner for herself as well. Therefore, by way of this appeal, she has only pressed her claim for

4

interim maintenance.

5. Learned counsel for the respondent has submitted that since petitioner has independent source of income, the trial court rejected the claim of the petitioner seeking maintenance for herself and it is not a case where the court has not considered the claim of the petitioner while awarding the maintenance to the children.
6. In para 15 of the impugned order the trial court observed:

"15. It is correct that the applicant has not mentioned anything about her past employment in her application. She is professionally well qualified and has been working in the past. She has only left her job in March 2008 as claimed by her. Her bank account statement shows one time deposits of Rs.16,419/- in the month of July 2008, Rs.25,263/-, in the month August 2008, Rs.34,037 in the month of September 2008 and Rs.41,759/- in the month of November 2008. The applicant though claims to be unemployed since March 2008 she does have some source of income which she has not disclosed and accordingly is not entitled to any income as it has to be presumed that she is capable of looking after her expenses."

7. Thus, it is clear that it was from the bank account

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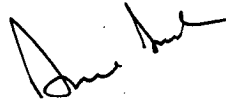
statement of the petitioner herself when shown, the trial court concluded that petitioner has some source of income which is not disclosed by her and therefore, she was not entitled to any maintenance as she was capable of looking after her expenses.

8. Petitioner allegedly left her job in March 2008 to look after her children. The statement of account placed by her before the trial court showed substantial amount of Rs.16,419/- deposited by the petitioner in her account in the month of July 2008 i.e. after she left her job in March, 2008. Thereafter, she deposited Rs.25,263/- in August, 2008 and Rs. 34,037/- in the month of September, 2008. Another sum of Rs.41,759/- was deposited in the month of November, 2008. The petitioner did not disclose the source of this money which was deposited by her in her account after resignation from services while claiming maintenance for herself.
9. Under these circumstances, the trial court rightly rejected the claim of the petitioner for her maintenance. The maintenance amount awarded to

6

the children is not in dispute.

10. Hence, I find no merits in the petition. The same is accordingly dismissed.


(ARUNA SURESH)
JUDGE

SEPTEMBER 10, 2009

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