

Court No. - 39

Case :- FIRST APPEAL No. - 1169 of 2023

Appellant :- Anurag Yadav @ Annu

Respondent :- Smt. Gunjan Yadav @ Gunja

Counsel for Appellant :- Sudhakar Shukla

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Syed Aftab Husain Rizvi,J.

1. Heard Sri Sudhakar Shukla, learned counsel for the appellant.
2. The present appeal has been filed U/s 19 (1) of Family Court Act, 1984, arising from the order dated 28.02.2023 passed by Additional Principal Judge, Family Court no.4, Kanpur Nagar referable to section 24 of the Hindu Marriage Act, 1955 in case no.3332 of 2022 (Anurag Yadav alias Annu vs. Smt Gunjan Yadav alias Gunja). By that order, the learned court below has awarded interim maintenance at the rate of Rs.4000/- per month. Perusal of the order indicates that the same has been made effective from the date of application dated 09.01.2023. As on date, about Rs. 40,000/- would be outstanding against the petitioner towards monthly maintenance allowance, thus awarded.
3. Having heard the learned counsel for the appellant and having perused the record, we find no good ground to offer any interference in exercise of our appellate jurisdiction. Undisputedly, the appellant is an able bodied citizen. He admits to have been earlier engaged on daily wage basis by the Postal Authorities against monthly payment of about Rs.35,000/-. As to disengagement, no documentary evidence exists. Even otherwise, assuming that the appellant is not gainfully engaged by the Postal Authorities, he is an able bodied citizen, who may be expected to

earn about Rs. 12000/- per month by performing manual labour.

4. On the other hand, the respondent is shown to be a home maker and having no independent source income. The plea set up by the appellant that the respondent was gainfully employed, could not be established. It remains an unproven fact.

5. By way of a principle, certain minimum amounts are required to be provided to the estranged wife for her sustenance. Seen in that light the amount of monthly maintenance allowance of Rs.4,000/- per month has been awarded from the date of the application being January, 2023.

6. It is in that light that the learned court below has made an observation that the social status of the parties commends that interim maintenance be awarded @ Rs. 4,000/- per month.

7. In the entirety of the facts and circumstances of the case, we find, no good ground to interfere either with the order of the award of legal expense or the quantum of award of maintenance @ Rs. 4,000/- per month.

8. Last, it has been submitted, sometime may be granted to the appellant to clear the arrears. That prayer we find acceptable.

9. Accordingly, the present appeal is disposed of with the following directions :

(i) Subject to the appellant furnishing adequate security to the tune of Rs. 50,000/- to the satisfaction of the court below in the shape of other than cash or bank guarantee by 30 November 2023, no coercive measure shall be adopted against the appellant, subject to other conditions provided herein. The appellant may also deposit Rs. 7,000/- towards legal expense within the same time.

(ii) As to the balance amount of Rs. 40,000/- being arrears of

maintenance from January 2023 to October 2023, the appellant shall deposit the same in two equal installments of Rs. 20,000/- each be deposited by him before the learned court below on or before 30 November 2023, 31 January 2024 respectively.

(iii) The appellant shall continue to pay to the respondent or deposit before the learned court below, monthly maintenance allowance from the period November 2023 onwards as and when it becomes due under the terms of impugned order.

10. Any amount already deposited by the appellant may be adjusted towards payment/s to be made by the appellant towards the last installment/s.

11. All the amounts may be either paid to the respondent, directly or be deposited by the appellant with the learned court below within time indicated above. In the latter case the amount/s shall be released to the respondent, forthwith.

12. However, it is made clear, in the event of failure on part of the appellant to comply with any part of the order, coercive measures be revived from that stage without any further reference to this Court.

Order Date :- 28.10.2023

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(S.A.H. Rizvi,J.) (S.D. Singh,J.)