

Court No. - 39

Case :- FIRST APPEAL No. - 1198 of 2023

Appellant :- Sudhanshu Seth

Respondent :- Gudia Alias Pushpa

Counsel for Appellant :- Sudhanshu Seth

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. The appellant has been heard in person. We have also perused the record.

2. Present appeal has been filed under Section 19 of the Family Courts Act, 1984, arising from the order dated 27.09.2023 passed by learned learned Principal Judge, Family Court, Bhadohi at Gyanpur in proceedings for divorce filed by the appellant being Case No. F 891 of 2020 (Sudhanshu Seth Vs. Gudia @ Pushpa). By that order, the learned court below has passed the order referable to section 24 of Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act') providing for interim maintenance @ Rs. 6000/- per month from the date of application made by the respondent. As on date, about Rs. 30,000/- is outstanding against the appellant.

3. Submission of the appellant is, marriage between the parties had been solemnized by practising deception inasmuch as the respondent was suffering from incurable disease which fact was hidden from him. As to the award of maintenance, it has been submitted, the same is excessive.

4. Having heard the appellant and having perused the record, we find that the matrimonial discord arising between the parties

resulting in the respondent living separately with her widowed mother, we find that the learned court below has not erred in providing for interim maintenance pending the proceedings for divorce instituted by the appellant. Certain minimum amounts have to be provided to ensure preservation of life and liberty with minimum dignity of an estranged spouse having no independent means of earning. While the appellant contends that the respondent is running a shop, other than the photographs of a stall, there is no credible material, at this stage, to act on the contention of the appellant.

5. Considering the fact that the appellant is a practising lawyer, the award of interim maintenance @ Rs. 6000/- per month and award of Rs. 10,000/- as one time legal expense is found to be neither excessive nor arbitrary.

5. Last, it has been submitted, some time may be granted to the appellant to clear the arrears. We accept that request.

6. 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 learned court below in the shape of other than cash or bank guarantee by 30.11.2023 from today, no coercive measure shall be adopted against the appellant, subject to such compliance being made.

(ii) As to the outstanding amount of Rs. 40,000/- being arrears of maintenance and one time legal expense, the appellant shall deposit the same in four equal monthly installments of Rs. 10,000/-, such that the same would be deposited by him before the

learned court below on or before 31.12.2023, 31.01.2024, 29.02.2024 and 31.03.2024.

(iii) As to the maintenance from the month of November, 2023, the same may be paid by the appellant on or before 10th day of each calender month under the terms of impugned order.

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

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

9. 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.

10. Subject to full compliance of this order, the learned court below may make best efforts to conclude the proceedings as expeditiously as possible without allowing for any undue or long adjournment to either of the parties preferably within a period of six months from the date of compliance shown by the appellant.

Order Date :- 2.11.2023
SA

(Shiv Shanker Prasad, J.) (S.D. Singh, J.)