

Court No. - 39

Case :- FIRST APPEAL No. - 1194 of 2023

Appellant :- Mohan Kumar Agarwal

Respondent :- Poonam Agarwal

Counsel for Appellant :- Jitendra Kumar, Keshav Hari
Dixit, Purushottam Dixit

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. Heard Shri Purushottam Dixit along with Shri Keshav Hari Dixit, learned counsel for the appellant and perused the record.
2. Present appeal has been filed under Section 19 of the Family Courts Act, 1984, arising from the order dated 20.07.2023, passed by learned Principal Judge, Family Court, Aligarh, whereby the learned court below has passed the order with reference to its power under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act') and provided for interim maintenance @ Rs. 6000/- per month to the respondent from the date of her application namely September, 2022 and further provided for one time legal expense, Rs. 7000/-, as also travelling expense @ Rs. 200/- per date.
3. The above order has been made pending the divorce proceedings instituted by the present appellant.
4. Having heard the learned counsel for the appellant and perused the record, we find no good ground to offer any interference in the quantification of the maintenance awarded or the date from which it has been awarded. It is undisputed to the appellant that he is gainfully employed and earning about Rs. 20,000/- per month. It is also admitted to the appellant that the respondent is a home maker

having no independent source of income. In the context of matrimonial discord being faced by the parties, the earning spouse i.e. the appellant has to make provision and provide for minimum means of sustenance with dignity to his estranged wife who has no other means to survive.

5. Seen in that light, the fact that the appellant has an old mother and two younger daughter to take care of them, it cannot be said that the amount awarded being less than 1/3rd of the total monthly income of the appellant is either excessive or arbitrary. In the present time, such amounts are necessary to provide minimum means of housing, clothing and food.

6. Similarly, we find that the award of one time legal expense, Rs. 7000/- is wholly reasonable and modest. No error has been committed by the learned court below in awarding the travelling expense, Rs. 200/- per date.

7. Last, it has been submitted, as on date, the appellant would be in arrears of about Rs. 90,000/-. Some time may be granted. The aforesaid prayer is accepted.

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

(i) Subject to the appellant furnishing adequate security to the tune of Rs. 1,00,000/- to the satisfaction of the 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 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. 90,000/- being arrears of

maintenance (up to the month of October, 2023), the appellant shall deposit the same in nine equal monthly installments, beginning 31.12.2023 ending 31.08.2024.

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

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

10. 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.

11. 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.

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

Order Date :- 1.11.2023/SA

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