

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 868 of 2013**

1. Duleshwar Prasad Deshmukh S/o Jhaduram Deshmukh, Aged About 38 Years (at present aged about 56 years), R/o MIG-1/1012, Amdi Nagar Hudco Colony, Distt Durg, At Present R/o Kala Parampara In Front Of Church, Street No. 04, Ashish Nagar (East), Krishna Talkies Road, Ps Newai, Risali, Bhiali, Distt Durg, Cg

---- **Petitioner****Versus**

1. Smt. Kirtilata (Kartiklata) Deshmukh W/o Duleshwar Prasad Deshmukh Aged About 34 years (at present 51 years), LIG-110, Amdi Nagar, Hudco, Bhilai, Ps Kotwali, Distt Durg, Cg

---- **Respondents**

For Petitioner.	:	Shri Alok Bakshi, Advocate.
For Respondent.	:	Shri B.P. Singh, Advocate.

Hon'ble Shri Justice Pritinker Diwaker**Order On Board****26/08/2015**

1. In the divorce proceedings before the Illrd Additional Principal Judge, Family Court, Durg, respondent/wife filed an application under Section 24 of the Hindu Marriage Act claiming Rs.40,000/- as litigation expenses. The said application was seriously contested by the petitioner saying that the monthly income of the respondent/wife is much more than the petitioner, and therefore, she is not entitled for any litigation expenses. It has been further asserted by the petitioner that the respondent/wife has even not claimed any monthly *pendente lite* maintenance and this itself is sufficient to prove that she is not dependent on anyone and her monthly income is as such that where she does not require any amount.
2. By the impugned order, the Court below has awarded Rs.15,000/- as litigation expenses in favour of the respondent and it is this order

which has been challenged by the petitioner in this writ petition.

3. Counsel for the petitioner submits that the respondent is working as Teacher, at the relevant time she was drawing salary of Rs. 30,000/- per month and apart from that she has other property from which she is earning enough, and therefore, question of granting any litigation expenses does not arise. He further submits that on the ground of providing education to the daughter and son of the respondent, litigation expenses cannot be awarded. He also submits that the respondent was litigating with the petitioner since 2003, whereas the application was filed by her only in the year 2009, which itself shows that her financial condition was as such that she was not required to have any litigation expenses.
4. Supporting the impugned order it has been argued by the counsel for the respondent that litigation expenses can be demanded at any stage considering the financial condition of the respondent. He further argued that even if the respondent has her own income and other source of income, it does not mean that she is not entitled for litigation expenses. He also argued that considering the monthly income of the petitioner, the litigation expenses of Rs.15,000/- as awarded to the respondent is a meager sum.
5. Heard learned counsel for the parties and perused the records.
6. True that the respondent is also getting salary being a Teacher. It is equally true that if litigation expenses are demanded at any stage, the Court can consider and grant the same. In the present case, after considering all the aspects of the case, the Court below has awarded Rs.15,000/- as litigation expenses. Relationship of the parties is not disputed. It is further not disputed that the petitioner is also doing government job. Taking into consideration the totality of the case, in

particular that Rs.15,000/- has been awarded by the Court below in favour of the respondent/wife, I am not inclined to interfere with the order impugned. The petition is accordingly dismissed.

7. It has been informed by the counsel for the respondent that though there is no stay granted by this Court, the Family Court has not yet proceeded in the case. The Family Court is directed to make all endeavour for early disposal of the suit. If possible, the Court below would dispose of the suit within eight months from the next date of hearing. It would be the duty of the parties to inform the Court below about passing of this order.
8. Registry is also directed to send the copy of this order to the concerned Court forthwith.

Sd/-

(Pritinker Diwaker)
JUDGE