

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.1006 of 2015

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.30.08.2014 in I.A.No.4058 of 2012 in O.P.No.1480 of 2012 on the file of Judge, Family Court, at L.B. Nagar, Ranga Reddy District..

2. The petitioner herein is the husband of respondent.
3. The respondent herein filed the said O.P. before the Family court seeking restitution of conjugal rights against petitioner.
4. Pending O.P., the respondent filed I.A.No.4058 of 2012 under Section 24 of the Hindu Marriage Act, 1955 (for short, 'the Act') seeking interim maintenance of Rs.1,25,000/- per month, pending disposal of the OP; and also a sum of Rs.25,000/- towards legal expenses.
5. In the affidavit filed in support of the said application, the respondent contended that petitioner is a Software Engineer employed in South Korea and drawing a very large salary of at least Rs.2,50,000/-; that he had not bothered to take care of her and to pay any maintenance, forcing her to live with her parents; and that she has no other source of income and that she required a sum of Rs.1,25,000/- per month as maintenance and also Rs.25,000/- towards legal expenses.
6. Counter-affidavit was filed by petitioner contending that he has to support his parents and that respondent is a Doctor of

Physiotherapy and has the earning ability to earn huge income; that this fact was suppressed by respondent. He did not deny that he was employed in South Korea, although he denied that he was earning a salary of more than Rs.2,50,000/- per month.

7. By order dt.30.08.2014, the Court below allowed I.A.No.1058 of 2012 awarding a sum of Rs.40,000/- towards maintenance *pendente lite* every month to respondent from the date of filing of I.A. It also awarded a sum of Rs.20,000/- towards legal expenses to respondent. In the said order, the Court below took note of the allegation of respondent that petitioner is drawing a large salary from his employer in South Korea; it assessed the said salary to be Rs.1,00,000/- per month, since the respondent did not place any material to show that the salary is Rs.2,50,000/- as alleged by her. Taking into account the fact that in D.V.C.No.8 of 2013 filed by respondent against petitioner, a sum of Rs.10,000/- was awarded to petitioner, it granted a sum of Rs.40,000/- per month as *pendente lite* maintenance, and Rs.20,000/- towards legal expenses.
8. Challenging the same, the present Revision is filed.
9. Heard Smt. Deepika Gadde, counsel for petitioner; and Sri Y. Ratna Prabha, counsel for respondent.
10. The counsel for petitioner contended that the amount awarded towards maintenance by the Court below is exorbitant and that since the respondent has been awarded a sum of Rs.10,000/- in D.V.C.No.8 of 2013 filed by her against petitioner, the appropriate amount towards maintenance *pendente lite* would be Rs.25,000/- per month; and that her client is willing to pay the said amount from the date of filing of the petition.

11. On the other hand, the counsel for respondent sought to contend that the monthly salary of petitioner is Rs.3,03,796/- per month, and therefore, the Court below cannot be said to have erred in granting the amount of Rs.40,000/- towards maintenance *pendente lite* every month, in addition to the amount awarded in D.V.C.No.8 of 2013.
12. Under Section 24 of the Act, the wife who has no independent income is entitled to be paid maintenance *pendente lite* sufficient for her support, having regard to the wife's own income and the income of husband, as may appear to the Court, which is reasonable.
13. In the present case, while there is no dispute that petitioner is employed as a Software Engineer in South Korea, there is no evidence placed on record to show that respondent is also gainfully employed. Before the Court below, no evidence has been placed by petitioner as well as respondent as to the quantum of salary being drawn by petitioner. Therefore, the Court below was forced to guess the monthly salary of petitioner as Rs.1,00,000/- per month. Although some material is placed before this Court alleging that petitioner is drawing a sum of Rs.3,03,796/- per month, since such material has not been placed before the Court below, I am not inclined to take the said figure into account.
14. Although it is contended by counsel for petitioner that the respondent is gainfully employed at Apollo Hospital, Hyderabad and that she is also a Doctor of Physiotherapy, this fact is disputed by respondent's counsel, who states that respondent is

pursuing a in Post Graduate course in Hospital Management at Apollo Hospital, and that she is not employed. However, I do not wish to express any opinion on this aspect, and it is open to both sides to adduce evidence in this regard in the O.P.

15. Since the purpose of awarding maintenance *pendente lite* is to ensure that the wife has sufficient means to support herself, the quantum of maintenance *pendente lite* cannot be so exorbitant as to allow the wife to lead a luxurious life at the expense of husband. Therefore, I am of the view that interests of justice would be adequately served if the amount awarded by Court below towards maintenance *pendente lite* is restricted to a sum of Rs.25,000/- per month, including the amount awarded in the D.V.C.No.8 of 2013 to respondent. However, the amount of Rs.20,000/- awarded towards legal expenses cannot be said to be on a higher side.
16. Therefore, the Revision is disposed of directing that a sum of Rs.25,000/- per month [inclusive of the amount awarded in favour of respondent in D.V.C.No.8 of 2013 on the file of X Metropolitan Magistrate, Hyderabad at Malkajgiri] be paid to respondent during pendency of O.P. and the arrears, if any, from the date of filing of I.A.No.4058 of 2012 till date be paid within a period of six (06) weeks from the date of receipt of a copy of this order. No order as to costs.
17. As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 15.09.2015

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