

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.4672 OF 2015

ORDER:

Heard Sri P.Sridhar Reddy, learned counsel for the petitioner and Sri M.Ravindra for respondent.

The parties to the revision petition are husband and wife respectively. The petitioner filed FCOP No.98 of 2014 for divorce through his Power of Attorney under Section 13(1) (I) (a) and 13(1)(iii) of the Hindu Marriage Act.1955 (for short 'the Act').

During the pendency of FCOP, the respondent filed I.A.No.645 of 2014 under Section 24 of the Act claiming interim maintenance at Rs.5,00,000/- per month from 26.11.2011 and continue to pay the same as may be directed by the Court. The revision petitioner filed counter opposing the prayer in I.A.No.645 of 2014.

While matters stood thus, respondent filed I.A.No.280 of 2015 with the following prayer:

- a) Direct the respondent herein to file the following documents within the time fixed by this Honourable Court.
- i) Copies of Income Tax returns along with balance sheets for the last 3 years prior to 2015.
- ii) Income Tax Assessment order for the last 3 years prior to 2015.
- iii) Salary pay slip of respondent from the company in which he is working.
- iv) Statement of a account relating to his bank in U.S.A.
- v) Pattadar pass book relating to the lands owned by the respondent.
- vi) Land title deed
- vii) Title deeds relating to sites at Nellore and Chennai.
- b) Grant costs of this suit.
- c) And grant such other and further reliefs."

The revision petitioner opposed the prayer in I.A.No.280 of 2015. Through the order impugned in the revision, learned Judge directed the revision petitioner to furnish Income Tax returns of 3 years prior to 2015, pay slip, statement of account relating to his bank in U.S.A. The other prayers for production of other documents are rejected.

Sri P.Sridhar Reddy, learned counsel for the petitioner contends that the prayer under Section 151 of Civil Procedure Code in an application filed under Section 24 of the Act is thoroughly misconceived and the reasons assigned by the trial Court are not germane either to the lis or to the prayer in I.A.No.645 of 2014. Leaned counsel while challenging the findings in I.A.No.280 of 2015, fairly states that the trial court is competent to decide the prayer for grant of interim maintenance having regard to the social status of parties, employment, place of work etc. but the Court cannot compel the revision petitioner to disclose everything for considering the prayer in I.A.No.645 of 2014. He relies upon the decision in **Rajesh Bhatia and others v. G.Parimala and another**^[1]. He prays for allowing the revision petition.

Mr.Ravindra, learned counsel for the respondent contends that the respondent is in complete dark of all the details of the revision petitioner, for in the year 2011, the respondent was driven out from the conjugal home in the U.S.A., ever since, she is residing with her parents. Having regard to the initial details, the respondent with a view to bring home her prayer for grant of Rs.5,00,000/- interim maintenance, has filed the instant application under Section 151 of CPC. The learned counsel fairly states that though the respondent cannot compel the revision petitioner to produce documentary evidence in support of her claim but still can pursue her prayer within the four corners of law. Learned counsel places reliance upon the decisions reported in **Puneet Kaur v. Inderjit Singh Sawhney**^[2] and **Kusum Sharma v. Mahinder Kumar Sharma**^[3] and contends that the prayer as granted by the trial Court no exception can be

taken.

I have taken note of the submissions of learned counsel appearing for the parties and perused the material available on record. The respondent filed I.A.No.645 of 2014 for grant of interim maintenance. The prayer under Section 24 of the Act is normally considered by reference to the affidavits filed by the respective parties and also the documents produced for the tentative determination of maintenance payable by husband to the wife. The application filed under Section 24 of the Act ought not to be converted in to a full trial exercise independent of prayer in FCOP No.98 of 2014. For the purpose of deciding I.A.No.645 of 2014, the affidavit of respondent and the counter of revision petitioner are available. The trial court has enough discretion and can use its experience and knowledge in deciding the application filed by the respondent herein. The husband/revision petitioner ought to place evidence for either opposing the prayer for maintenance or for grant of a lesser sum as maintenance. If the Court has sufficient reasons to believe that the husband has not placed all the details and documents, the trial Court can certainly draw necessary inferences. I am conscious that the extensive list of factors that weigh with the Court are not attempted in this case. However, the broad factors considered in guessing or determining the income of spouses ought not to be arbitrary, whimsical or fanciful. Therefore, it is for husband to place before the Court material enough to understand totality circumstances of income and avoid any guessing by the Court. Summoning these documents at this stage, having regard to the facts and circumstances of this case, at the request of respondent, in my considered opinion, is unnecessary. The Court during the course of trial or otherwise if required, it is always competent to call upon the party for cause production of documents. With the above observation, the order impugned is set aside. The trial Court is directed to pass appropriate orders in I.A.No.645 of 2014 within a period of four weeks from the date of receipt of a copy of this order.

The C.R.P. is allowed. No order as to costs.

Miscellaneous petitions pending if any shall stand closed.

S.V.BHATT,J

Date:11.12.2015

Note:

Dispatch copy forthwith.

B/o.

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[\[1\]](#) 2006 (3) ALD 415

[\[2\]](#) 2011 Law Suit (Del) 3905

[\[3\]](#) 2015 LAW Suit (Del)323