

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.7777 of 2015 (O&M)

Date of decision : 21.12.2015

Smt. Jyoti

...Petitioner

Versus

Manish Goel

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. M.K. Garg, Advocate for the petitioner.

Mr. Sudhir Mittal, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

The petitioner-wife is aggrieved of the impugned order dated 20.10.2015, whereby Executing Court has granted liberty to the respondent-husband to pay the (determined) balance amount of maintenance pendente lite of ₹8 lacs by making payment in monthly installments of ₹20,000/- by assessing the income of the husband as ₹50,000/- P.M.

Mr. M.K. Garg, learned counsel appearing on behalf of petitioner-wife submits, that while passing the order in application filed under Section 24 of the Hindu Marriage Act, the trial Court had assessed the income of the husband as ₹1 crore per annum and, therefore, granted ₹1 lacs

per month as interim maintenance pendente lite. He further submits that said order has attained finality. When the order of maintenance pendente lite was being executed an objection was filed by the father of the respondent-husband but the same has been dismissed and even revision filed in this Court has been also met with same fate and no relief has been granted by filing SLP in Hon'ble Supreme Court. However, in execution proceedings, petitioner sought attachment of the property, but JD moved an application showing his incapability of making balance payment and the Court erroneously determined the payment of the aforementioned amount by way of monthly installment.

Mr. Sudhir Mittal, learned counsel appearing on behalf of respondent submits, that respondent-husband is not able to pay balance amount of ₹8 lacs in lump sum and the monthly installments have been ordered by taking into consideration the income of respondent-husband as ₹50,000/- per month.

This Court during the course of hearing, called upon Mr. Sudhir Mittal, Advocate to seek instructions from his client that in how much time the balance amount of ₹8 lacs can be paid as the payment of the balance amount of maintenance pendente lite in the shape of installments of ₹20,000/- as per impugned order would span over a period of three years.

Mr. Sudhir Mittal, learned counsel after having instructions from his client informed the Court that he would not be able to make the payment of ₹8 lacs in lump sum or within three installments. The operative part of the order, whereby trial Court assessed income of the husband as ₹1 crore per annum and ordered ₹1 lacs as interim maintenance pendente lite,

reads thus:-

“In these circumstances, in view of the financial capacity of petitioner and needs of the respondent No.1-wife, I am of the view that it would meet the ends of justice in case the petitioner-husband is ordered to pay Rs.1 lac per month as maintenance pendente lite from the date of application i.e. 29.03.2012 besides Rs.5000/- as litigation expenses. Petitioner is directed to clear the arrears of maintenance allowance and litigation expenses on the next date of hearing i.e. 12.01.2013. The petitioner shall continue to pay the monthly maintenance pendente lite on 10th of each month. Application under Section 24 of HMA is disposed off accordingly.”

The aforementioned order has attained finality up to this Court as per the documents and copy of the order annexed as Annexures P-7, P-8 and P-9. Against the dismissal of the objections filed by the father, this Court vide order dated 04.08.2015 dismissed revision petition but however observed that Judgment Debtor shall be at liberty to seek the payment of maintenance in installments. It is in these circumstances, the application was moved which came to be decided vide impugned order, which reads thus:-

“Learned proxy counsel for the JD has submitted that he is incapable of making the balance payment of approximately Rs.8 lacs in one go and as per orders of the Hon'ble High Court he may be permitted to make the payment in monthly installments of Rs.20,000/-. The DH has opposed the quantum of proposed installment as it is too less. In the interest of justice ad to prevent any delay in recovery as the learned proxy counsel for the JD states that he has no other source of income except the salary of Rs.50,000/- PM, the request made on behalf of the JD is

accepted. He is directed to make the payment in monthly installments of Rs.20,000/- each. No delay in the payment shall be accepted and even a single default shall make the entire outstanding amount immediately payable failing which penal consequential shall follow. To come up on 20.11.2015 for making balance payment.”

Keeping in view the aforementioned orders, I am of the view that Executing Court has erroneously entertained the application of the Judgment Debtor-respondent to make the balance payment of maintenance pendente lite in monthly installments of ₹20,000/- by taking salary of respondent as ₹50,000/- Payment of ₹20000/- by way of monthly installments would span over a period of three years which is not the scope of the order vide which the application under Section 24 of the Hindu Marriage Act, was filed.

Accordingly, impugned order is set aside. The petitioner-wife shall be at liberty to seek execution of the order dated 17.11.2012 in accordance with law.

Accordingly, revision petition is allowed.

21.12.2015

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**(AMIT RAWAL)
JUDGE**