

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.955 of 2015 (O&M)
Date of decision:15.05.2015

Dr.Amar Nath Chauhan

....Petitioner

Versus

Dr.Suresh Kumari

.....Respondent

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Saurabh Arora, Advocate, for the petitioner.

Mr.Satyavir Sharma, Advocate
and Mr.Manoj Kaushik, Advocate, for the respondent.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition is to the order dated 20.11.2014 (Annexure P7), passed by the District Judge, Family Court, Gurgaon, whereby a sum of ₹30,000/- has been directed to be paid, as interim maintenance, to the applicant-wife, apart from the school fees of the daughter.

The sole grouse of the petitioner is that the divorce petition under Section 13(1)(ia) of the Hindu Marriage Act, 1955 (for short, the 'Act') was filed by the petitioner on 15.05.2013. An application under Section 24 of the Act dated 14.08.2013 had been filed by the respondent-wife and reply to the same was filed in March, 2014, wherein the plea taken was that the respondent-wife was earning handsome salary of ₹55,000/- and was also occupying the house of the petitioner in Uppal Southend, Sohna Road, Gurgaon, Haryana. The entire expenditure of the daughter, who was studying in the hostel, was being met by the husband. The same was not decided at that point of time.

However, an affidavit dated 20.11.2014 was filed by the respondent-wife that she was not employed and was not able to maintain herself. The impugned order was then passed on the same day, whereby a sum ₹30,000/- per month, as interim maintenance, had been granted.

It is, thus, submitted that in such circumstances, the impugned order was not justified as no proper opportunity was given to contest the said application and there was no urgency to decide the application on the same day. It was submitted that if change of circumstances had taken place between the filing of the application and the filing of the affidavit, opportunity should have been given to the petitioner.

Accordingly, keeping in view the above facts and circumstances, the order dated 20.11.2014, is set aside and the case is remanded to the Family Court, Gurgaon, who shall decide the application under Section 24 of the Act, afresh, within a period of 2 months from today. Any payments received by the wife, in pursuance of the impugned order, shall be liable to be adjusted, and benefit will be given to the husband regarding the amounts already paid.

Revision petition is allowed, in the abovesaid terms.

15.05.2015
sailesh

(G.S.SANDHAWALIA)
JUDGE