

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 680 of 2015

Date of decision : August 04, 2015

Javitri Devi

..... Petitioner

Versus

Radhey Shyam Goyal and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Jagdish Rai, Advocate
for the petitioner

ANITA CHAUDHRY, J.(ORAL)

This revision is directed against the judgment dated 12.11.2014 passed by the Additional Sessions Judge, Rewari and the order dated 13.08.2013 passed by JMJC Rewari.

The facts in brief are that Javitri got married to Radhey Shyam Goyal in 1990. It was the second marriage for both Javitri and Radhey Shyam. Radhey Shyam had four children from his first marriage. Disputes arose some time in 2009 and an agreement was drawn up according to which the husband had agreed to pay ₹ 5000/- per month to his wife. She was permitted to stay in his house. The water and electricity charges were also to be paid by the husband. The husband applied for divorce in 2012 and he stopped paying maintenance thereafter.

With this background, a petition under the Domestic Violence Act was filed in 2013 in which an order was passed by the Magistrate and a sum of ₹ 5000/- was allowed as interim

maintenance. Directions were given to the husband not to evict the wife from the house she was residing in and in case of necessity provide her with an alternative place of residence or in the alternative to pay a sum of ₹ 2000/- per month as rent allowance.

Aggrieved by the order, Javitri filed an appeal which was dismissed on 13.08.2013. The wife has now filed this revision and seeks enhancement of the interim maintenance.

On the last date of hearing, the record of the lower Court had been summoned. The file has been received.

I have heard learned counsel for the petitioner at length.

The submission on behalf of the petitioner is that the parties were in the age group of 60 and the husband was a metal merchant and this fact was not disputed in the case decided on 15.05.2014. The counsel refers to the order passed in C.R. No. 3425 of 2014. He contends that the husband had a higher income and they had placed the details of his properties and both the Courts have ignored the documentary record and confined it to the compromise. It was urged that the petitioner was a patient of hyper tension and was on medication and she was entitled to a higher amount. It was urged that the children from the first wife were all married and there was no other liability. Reliance was placed upon ***V.D. Bhanot vs. Savita Bhanot, 2012(1) RCR(Civil) 972*** and ***Saraswathy vs. Babu, 2014(1) RCR(Criminal) 167.***

A perusal of the order dated 15.05.2014 shows that the husband was 64 years and the age of the wife was recorded as 54 years. It is not disputed that it is the second marriage for both of

them and they are residing separately since 2009. The husband had filed a divorce petition in August 2012 on the grounds of cruelty and desertion. The wife had also moved an application for maintenance in the divorce petition where she had claimed that husband was earning ₹ 1,50,000/- per month and had prayed for maintenance of ₹ 50,000/- per month. The husband had pleaded that his monthly income was ₹ 15,000 to ₹ 20,000/- per month. None of the parties had produced documents in support of their respective claims and the order of payment of ₹ 5,000/- per month as maintenance was affirmed and the revision filed by the husband was dismissed.

Interim maintenance had been allowed to the petitioner as per the agreement between the parties. The wife has been allowed a place to live in. The electricity and water bills are to be paid by the husband. The petitioner is relying upon the entries in the municipal records to show that Radhey Shyam owned a number of properties. There is no material to show that the property were fetching any rentals. The parties would get an opportunity to lead evidence in support of their claims. Maintenance has been allowed for the interim period. I see no illegality in the order warranting interference.

The petition is dismissed.

August 04, 2015

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**(ANITA CHAUDHRY)
JUDGE**