

Onkar Singh v. Jaswinder Kaur

PRESENT: Mr. Nripjeet S. Mehrook, Advocate for
Ms. G.K. Mann, Advocate for the appellant.

Mr. Rakesh Kumar, Advocate for the respondent.

CMM No. 146 of 2014

1. This is an application under Section 24 of the Hindu Marriage Act, 1955 (in short "the Act") filed by the respondent-wife for grant of maintenance pendente lite and litigation expenses.

2. There was a matrimonial dispute between the parties. The appellant-husband filed a petition under Section 13 of the Act for dissolution of marriage by a decree of divorce. The trial court on appreciation of evidence led by the parties, dismissed the divorce petition vide judgment and decree dated 6.9.2013 against which the instant appeal has been filed by the appellant-husband. The respondent-wife has filed the present application under Section 24 of the Act for maintenance pendente lite and litigation expenses during the pendency of the appeal, *inter alia*, pleading that she is residing with her old father, who had no sufficient income to feed her. The respondent-wife is a household lady and is totally dependent upon her parents and is residing in her parents house along with her minor daughter. On the other hand, the appellant-husband is residing abroad (Italy) and earning sufficient amount. She prayed for grant of maintenance at the rate of ₹ 25,000/- per month during the pendency of the appeal.

3. Notice of the application was issued. Reply has been filed in court today by the appellant-husband controverting the averments made in the application.

4. We have heard learned counsel for the parties and perused the application as well as reply.

5. In addition to Section 24 of the Act, this Court is also empowered to pass interim orders in terms of Section 26 of the Act with regard to custody, maintenance and education of minor children. The claim has been made by the respondent-wife in this regard. The trial court vide order dated 17.12.2011 had awarded ₹ 5000/- per month on account of maintenance pendente lite to the wife and the minor child. Keeping in view the financial position of the appellant-husband, the status of the respondent-wife along with her minor daughter having no source of income, being dependent upon her parents, the cost of living these days and the overall facts and circumstances of the case, it would be appropriate to award ₹ 6000/- per month to the respondent-wife and her minor daughter under Sections 24 and 26 of the Act from the date of the application during the pendency of the appeal in this Court. Ordered accordingly. The appellant has already been paid total amount of litigation expenses of ₹ 15,000/- vide orders dated 19.12.2013 and 18.2.2014 passed by this Court.

6. CMM stands disposed of accordingly.

FAO-M-309 of 2013

Heard.

Admitted.

To be listed for final hearing on 6.4.2015.

**(AJAY KUMAR MITTAL)
JUDGE**

January 19, 2015
gbs

**(SNEH PRASHAR)
JUDGE**