

Civil Revision No.1854 of 2016

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.1854 of 2016

Date of Decision: 14.9.2016

Satbir Singh

--- Petitioner

versus

Bhateri Devi and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Rahul Vats, Advocate for the petitioner

Rekha Mittal, J.

The present petition has been directed against order dated 24.2.2016 passed by the District Judge, Kaithal whereby Bhateri Devi respondent has been awarded maintenance pendente lite at the rate of Rs. 1800/- per month and an amount of Rs. 2000/- towards litigation expenses.

Counsel for the petitioner has submitted that as the respondent is living in adultery with Manjit son of Pala Ram and has performed marriage with him during subsistence of earlier marriage with the petitioner, she has rendered herself ineligible to claim maintenance.

The trial court, on a detailed consideration of the matter, in

regard to allegations and counter allegations raised by the parties has held that these are disputed questions of fact to be tested on the basis of evidence at the time of final disposal of the petition. Counsel for the petitioner has failed to point out any materials on record, sufficient to establish prima facie that the respondent wife is living in adultery, to deny her maintenance by the petitioner with whom she admittedly performed marriage.

The court below awarded maintenance at the rate of Rs. 1800/- per month by assuming that the petitioner (husband) must be earning Rs. 20,000/- to 22,000/- per month. On the last date, this Court called upon the State of Haryana to provide necessary information with regard to salary of the petitioner. In response thereto, Dr. R.K.Grover, Deputy Director (Planning), Directorate of Animal Husbandry & Dairying, Haryana, Panchkula filed his affidavit alongwith annual statement (Annexure A-1) in regard to salary of the petitioner. Perusal thereof would reveal that the petitioner's gross emoluments are Rs. 58,582/- per month out of which an amount of Rs. 15,000/- has been deducted towards GPF/NPS. The only statutory deduction made is of Rs. 2500/- per month towards income tax. In view of the above, salary of the petitioner for the purpose of assessment

of maintenance would be more than Rs. 55,000/- per month. The petitioner has an obligation to maintain three unmarried children and there is one married daughter. Keeping in view the aforementioned facts, maintenance awarded to the respondent is liable to be enhanced. Accordingly, the order passed by the trial Court is modified and the respondent is awarded maintenance at the rate of Rs. 4,000/- per month from the date of application under Section 24 Hindu Marriage Act.

The petition stands disposed of in the aforesaid terms.

(Rekha Mittal)
Judge

14.9.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No