

...

222

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

**1. CR-2026-2016
Date of Decision : June 1st, 2016**

Gurtej Singh Sidhu Petitioner

Versus

Baljinder Kaur Sidhu and another Respondents

2. CR-2577-2016

Baljinder Kaur Sidhu and another Petitioners

Versus

Gurtej Singh Sidhu Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

- | | |
|--|-----|
| 1. Whether Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporters or not? | |
| 3. Whether the judgment should be reported in the Digest? | Yes |

Present Mrs. G.K.Mann, Advocate,
for the petitioner in CR No. 2026 of 2016 and
for the respondent in CR No. 2577 of 2016.

Mr. Satbir Gill, Advocate,
for the respondents in CR No. 2026 of 2016 and
for the petitioners in CR No. 2577 of 2016.

SHEKHER DHAWAN, J.

By this common order, CR No. 2026 of 2016 titled **Gurtej Singh**

Sidhu Vs. Baljinder Kaur Sidhu and another and CR No. 2577 of 2016

...

titled **Baljinder Kaur Sidhu and another Vs. Gurtej Singh Sidhu** are being disposed of as challenge in both these petitions is to the order dated 6.2.2016 [Annexure P/7] whereby, application under Section 24 of the Hindu Marriage Act, 1955 filed by Baljinder Kaur [wife] on her behalf and on behalf of minor daughter – Rabbia Singh, was decided and the Court below after considering all the facts dismissed the application of the wife for interim maintenance under Section 24 of the Act but accepted the prayer of maintenance allowance for the minor and both the parties i.e., father as well as mother, were directed to make payment of Rs.7500/- per month each and the petitioner – Gurtej Singh Sidhu was directed to pay Rs.7,500/- per month as maintenance *pendente lite* to the minor daughter as she was living with her mother. Apart from that, the Court below also passed the order for payment of litigation expenses of Rs.10,000/-.

In CR No. 2026 of 2016, Gurtej Singh Sidhu, husband of respondent No.1 and father of respondent No.2, has prayed for setting aside order dated 6.2.2016 whereas in CR No. 2577 of 2016 filed by Baljinder Kaur [wife] and Rabbia Singh [minor daughter] prayer is for modification of order dated 6.2.2016 by granting maintenance pendente lite to the tune of Rs.1,00,000/- per month and litigation expenses.

Taking the case from the admitted facts that both Gurtej Singh Sidhu and Baljinder Kaur Sidhu are legally wedded husband and wife and now they are living separately. Rabbia Singh, minor daughter is living with her mother, Baljinder Kaur Sidhu. Both the parents are earning and they are comfortably placed having handsome financial resources at their command. As such, the prayer of wife for grant of interim maintenance was

...

rightly declined by the Court below.

As regards to payment of interim maintenance to the minor, learned counsel for the petitioner [In CR No.2026 of 2016] submitted that the application filed by minor child under Section 24 of the Act is not maintainable as the same should have been filed under Section 26 of the Act. However, similar matter was before Hon`ble Allahabad High Court in **Har Pal Singh Vs. Additional Sessions Judge/Special Judge, Rampur 1999 (2) CivCC 469**, wherein while dealing with the similar plea, it was observed that no separate application is required to be filed and the application filed under Section 24 of the Act is sufficient for grant of interim maintenance for the minor child as well. Quite identical are the facts of the case in hand.

As regards to grant of maintenance allowance to the minor child, there is no denial to the fact that the minor child is certainly entitled to seek maintenance allowance from her parents and they are legally bound to maintain the minor child. Undisputedly, the Court is to see the paying capacity of the parents. In the present case, both the parents are earning handsomely, though the quantum of income is a matter of fact which is required to be proved after leading of evidence by the parties. The Court below considered the fact that the minor child is living with the mother and the petitioner [father] is working as Excise and Taxation Officer apart from the fact that he is having moveable and immovable property in his name. As both the parents of the minor child are class-I Gazetted officers, the Court below has rightly determined the maintenance allowance for the minor child to be Rs.15,000/- per month to be shared equally by both the

...

parents. That way, the petitioner [father] is to make payment of Rs.7,500/- per month as the minor child is living with her mother. Apart from that the Court below has passed the order allowing Rs.10,000/- as litigation expenses and that cannot be considered to be on higher side in any way. The Court below while granting interim maintenance allowance is to see the earnings of the parents and their social status and in the present case, as both the parents being class I Gazetted officers, the minor child has a right to be maintained at least with some status and for that purpose, the payment of interim maintenance awarded by the Court below cannot be said to be on higher side in any way. Such a view was taken by Hon`ble Supreme Court in **Neeta Rakesh Jain Vs. Rakesh Jeetmal Jain**, 2010(5) BCR 693. At this stage, there is no ground for enhancement of interim maintenance as the same has been ordered to be paid *pendente lite*.

In view of the above, there are no grounds for setting aside the impugned order and both the revision petitions stand dismissed.

(SHEKHER DHAWAN)
JUDGE

June 1st, 2016
som