

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

**C.R. No.2600 of 2016 (O&M)
Date of Decision.13.12.2016**

Ram AvtarPetitioner
Vs
SarojRespondent

Present: Mr. Ram Kumar Saini, Advocate
for the petitioner.

Mr. Manish Kumar Singla, Advocate
for the respondent.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner-husband is aggrieved of the impugned order whereby the application moved by the wife in the divorce petition filed by him for maintenance pendente lite @₹3000/- per month has been allowed, however, interim custody of the child has been given for three months.

Mr. Saini, learned counsel appearing for the petitioner submits that as per the medical record, the child has to undergo for a second heart surgery and estimated cost for the same, as noticed in the notice of motion order, is ₹3,75,000/- and since the wife is not able to bear the aforementioned expenses, it would be better to give custody of the child, who is aged 10 years, to the father.

As regards the maintenance pendente lite, the husband is working as Clerk in a private school having a salary of ₹8272/- per month and therefore, the maintenance pendent lite @₹3000/- per month is on higher side, which could not be more than ₹1800/- per month.

Per contra, Mr. Singla, learned counsel appearing for the respondent-wife submits that the order under challenge is liable to be set aside

on the ground that the wife cannot be deprived of meeting the child particularly

when the child is suffering from heart ailment. She is working as a Teacher in a play way school and being given a paltry salary of ₹1200/- per month. Even for a permanent job in a private school, the salary in an urban or town area is not more than ₹6000/- to ₹8000/- per month. The petitioner has also not been able to place on record any material regarding her income, on the contrary, husband has agricultural land, proof of which could not be placed on record, thus, urges this Court for affirming the finding under challenge.

I have heard learned counsel for the parties, appraised the paper book and of the view that as regards the interim custody of the child, the same could not have been granted to the wife as she is not able to bear the expenses of the child, who has to undergo second heart surgery. However, I would not deprive the wife from meeting the child by affording her the visitation rights thrice a month on weekends, preferably on Saturdays or Sundays with prior intimation, at the place convenient to the parties. Accordingly, the order under challenge qua custody is not sustainable and hereby modified.

As regards the order of maintenance pendente lite, I am of the view that awarding of maintenance @₹3000/- per month is not on higher side or phenomenon. Once the husband is having a salary of ₹8272/- per month, 1/3rd of the same is almost close to the aforementioned amount.

For the foregoing reasons, I do not intend to differ with the finding rendered by the Court below qua awarding of maintenance pendente lite @₹3000/- per month. No ground for interference is made out. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

December 13, 2016
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No