

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

**CR No.4867 of 2016(O&M)
Date of decision : 09.09.2016**

Amanpreet Kaur

..... Petitioner

VS

Kanwalvir Singh Kang

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present : Ms. Savita Saxena, Advocate,
 for the petitioner.

Mr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Karan Vir Nanda, Advocate,
for the respondent.

RAJ MOHAN SINGH, J. (Oral)

Learned counsel for the petitioner seeks modification of order dated 28.03.2016 passed by Additional District Judge, Chandigarh, whereby an amount of ₹5,000/- towards litigation expenses was fixed in favour of the petitioner.

Learned counsel for the petitioner states that at the time of passing of the impugned order, her Advocate was not present. This fact can be fortified by reading of mail sent by her Advocate to the petitioner, disclosing that in fact proxy counsel appeared on his behalf on that date.

Apparently, an application under Section 24 of Hindu Marriage Act was filed before the Additional District Judge, Chandigarh on 21.03.2016 along with an affidavit of the petitioner. No reply to the application was filed by the respondent. Trial Court proceeded with the pleadings on record and ultimately awarded an

amount of Rs. 5,000/- towards litigation expenses in favour of the petitioner on the premise that there is no evidence on record to substantiate the assertion made by the petitioner in her application at that stage.

During the course of arguments, both the parties are ad idem that the impugned order dated 28.03.2016 be set aside with liberty to both the parties to assert their pleadings before the Additional District Judge, Chandigarh in the application under Section 24 of Hindu Marriage Act.

Learned counsel for the respondents states that he will file all the necessary evidence before the Court concerned in order to establish his total income per month. In case decision is taken by the trial Court on merits of the application, that would enable the parties to avail their further legal remedies in accordance with law.

At this stage, this Court does not find any impediment in the way to the suggestive mechanism thereby giving liberty to both sides to produce evidence before the Additional District Judge, Chandigarh in ultimate decision of application under Section 24 of Hindu marriage Act.

On 01.08.2016, learned counsel for the caveator/respondent submitted that the respondent is ready and willing to pay an amount of Rs. 25,000/- towards litigation expenses. The aforesaid offer was in the context that if ultimate decision is to be given by this Court based on the impugned order, then the said amount was to be taken into consideration as full and final settlement in respect of litigation expenses.

Today, learned counsel for the respondent submits that he may not be bound down by the offer as the trial Court would decide the controversy after assessing legality and validity of the evidence to be produced before it.

I consider the submission to be worth consideration. As an interim maintenance, I direct the respondent to pay an amount

of Rs. 15,000/- subject to adjustment in the final outcome of the decision to be taken by the trial Court.

With the aforesaid observations, I remand this case to the Additional District Judge, Chandigarh to decide the controversy afresh after giving opportunity to the respondent to counter the assertion made by the petitioner in her application under Section 24 of the Hindu Marriage Act. The respondent undertakes to file his reply before the Additional District Judge on 16.09.2016. Both the parties are directed to appear before the Additional District Judge, Chandigarh on 16.09.2016, the date on which respondent shall file his reply to the application under Section 24 of Hindu Marriage Act. The trial Court shall make every endeavour to decide the application preferably within a weeks time thereafter in accordance with law.

Disposed of.

(RAJ MOHAN SINGH)
JUDGE

09.09.2016
sumit

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No