

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 5374 of 2011 (O&M)

Date of Decision: 10.05.2016

Ram Baksh Bajaj alias Rahim Baksh Bajaj

... Petitioner(s)

Versus

Ruchika and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

Present: Mr. K.L.Suneja, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present petition under Article 227 of the Constitution of India for setting aside order dated 28.7.2011, passed by learned Civil Judge (Junior Division), Chandigarh, whereby respondent No.1-Ruchika was awarded interim maintenance allowance to the tune of ₹ 1,500/- per month and respondent No.2-Preeti was awarded interim maintenance allowance to the tune of ₹ 1,000/- per month from the date of passing of the order.

Respondents took the plea that respondent No.1-Ruchika was studying in 10+2, while respondent No.2-Preeti was doing

temporary job, which she had already left. Ruchika had taken admission in Engineering College at Mullana. The mother of respondents already paid the amount for their admission and other annual expenses for the last two years but the petitioner had not paid even a single penny and prayed that he be directed to make payment of ₹ 74,000/- i.e. ₹ 54,000/- being tuition charges and ₹ 20,000/- being transportation charges.

Petitioner contested the application on the ground that both the plaintiffs have become major i.e. plaintiff No.1 is about 19 years old, whereas plaintiff No.2 is 28 years old and they are living with their mother. Petitioner is getting monthly pension of ₹ 4,500/-, which is the only source of his income. The mother of plaintiffs is in government service and drawing more than ₹ 15,000/- per month as salary besides having income from agricultural land, interest on FDRs in bank account and a sum of ₹ 34,000/- having been received from the defendant/petitioner in lump-sum on account of maintenance.

The Court below, after considering the rival contentions of the parties, passed the order under challenge for making payment of ₹ 1,500/- per month to respondent No.1 and ₹ 1,000/- to respondent No.2 as interim maintenance allowance. However, request for payment of ₹ 74,000/- as educational expenses was declined and petitioner has challenged the said order.

Notice of motion was issued vide order dated 5.9.2011 but the respondents failed to put in appearance despite service.

Learned counsel for the petitioner, while assailing the order

dated 28.7.2011, submitted that the Court below has not considered the fact that there was no claim for interim maintenance by respondent No.2-Preeti, who was major since 3.6.1994 and was earning ₹ 15,000/- per month. She was married and was also having a child and grant of interim maintenance allowance at the rate of ₹ 1,000/- per month is illegal.

Learned counsel for the petitioner also submitted that respondent No.1-Ruchika was major since 8.9.2002; she is qualified and able bodied person; is possessing Engineering Degree. She was employed and earning ₹ 20,000/- per month and as such she was not entitled to ₹ 1,500/- per month as interim maintenance allowance. More so, petitioner had already paid ₹ 34,000/- as full and final settlement to the respondents, namely Ruchika and Preeti in the proceedings under Section 125 Cr.P.C. and their mother Smt. Shakuntla is also having huge agricultural land, cash balance, pension, interest income, whereas the petitioner is more than 68 years of age and suffering from mental depression and visionless and has no source of income except the pension, whereas the Court below completely ignored these facts while passing the impugned order.

Having considered the submissions made by learned counsel for the petitioner and perusal of the record of the case, the contention raised by learned counsel for the petitioner goes unrebutted that both the respondents are major and earning handsome amount and they are not entitled to interim maintenance allowance. More so, they have also received a lump-sum amount of ₹ 34,000/-. Petitioner

himself is a pensioner; he is more than 68 years of age and suffering from various ailments. However, the Court below has not considered these aspects while passing the impugned order. As such, the order under challenge is legally not sustainable.

Consequently, present petition is hereby accepted and the impugned order stands set aside.

(Shekher Dhawan)
Judge

May 10, 2016

"DK"