

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

213

FAO-4745-2015 (O&M)

Decided on : 30.11.2016

Saroj Devi and another

... Appellants

Versus

Satbir Singh

.. Respondent

**CORAM : HON'BLE MR.JUSTICE M.JEYAPPAUL
HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA**

Present : Mr.Sandeep Goyat, Advocate
for the appellants.

Mr.Jasbir Mor, Advocate
for the respondent.

M.Jeyappaul, J. (Oral)

Aggrieved by the quantum of maintenance at the rate of Rs.2500/- per month to each of the appellants, determined by the trial Court under Sections 18 and 22 of the *Hindu Adoption and Maintenance Act, 1956*, the appellants have preferred the present appeal.

We have heard the submissions made on either side.

Learned counsel appearing for the appellants at the very outset, submitted that the appeal qua 2nd appellant, namely Asha Rani is not pressed as the respondent has already taken the custody of 2nd appellant, during the pendency of the appeal.

In the light of the above submission, appeal qua the 2nd respondent stands dismissed as withdrawn.

Appellant, Smt.Saroj Devi has contended in her plaint filed before the trial court that the respondent is the owner of 32 kanals and 01 marla of agricultural land. Contending that she has no source of income, she claimed maintenance for herself and also for her daughter at the rate of Rs.15,000/- per month.

The respondent preferred to remain absent during the course of trial proceedings. Therefore, the trial court having considered the ex parte evidence let in by the appellants, fixed the maintenance of Rs.2500/- per month to each of the appellants.

Learned counsel appearing for the appellant vehemently submitted that the respondent who is cultivating the agricultural land measuring 32 kanals and 01 marla, is earning not less than Rs.1,60,000/- per year, and therefore, the monthly maintenance fixed by the trial Court should be sufficiently enhanced.

Learned counsel appearing for the respondent submitted that even assuming that the respondent who had not contested the suit filed by the appellants, is earning a sum of Rs.1,60,000/- per year, the respondent is under obligation to maintain his three children born out of the wedlock. If the said amount of Rs.1,60,000/- is divided amongst 05 persons including the appellant, the maintenance fixed by the trial Court cannot be termed as disproportionate.

We find that the respondent is maintaining his 03 children who are in his custody. He will have to spend a sizable amount towards the upbringing of his three children. At any rate, the maintenance

amount of Rs.2500/- awarded by the trial court is found to be far less.

Considering the annual income that may be earned by the respondent, the obligation of the respondent to maintain his three children and the requirement of the 1st appellant to maintain herself, we are of the considered view that a sum of Rs.3500/- per month would effectively take care of maintenance of the appellant-Saroj Devi.

In view of the above, modifying the monthly maintenance awarded by the trial court, we direct the respondent to pay a sum of Rs.3500/- per month, from the date of the petition filed by the appellants before the trial Court.

However, charge created by the trial court on the agricultural land owned and possessed by the defendant shall be applicable for the enhanced amount of compensation fixed by us.

With the above directions, the appeal stands disposed of.

[M.Jeyapaul]
Judge

30.11.2016
sd

[Tejinder Singh Dhindsa]
Judge

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No