

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

Regular Second Appeal No.1196 of 2016 (O&M)

Date of Decision: August 19, 2016

Sunder Singh

...Appellant

Versus

Harjeet Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Bhavyadeep Walia, Advocate,
for the appellant.

AMOL RATTAN SINGH, J.(Oral)

1. This is an appeal by the husband, in a suit instituted by his wife (respondent herein) for recovery of ₹20,000/- per month, for a period of at least 10 years, i.e for recovery of ₹24,00,000/- from appellant-defendant, as permanent alimony and for restraining the appellant-defendant from alienating any portion of the land, as described in the head note of the judgment of the learned Additional Civil Judge(Senior Division), Talwandi Sabo. The suit was partly decreed in favour of the respondent-plaintiff and the first appeal filed by the respondent-plaintiff, against that judgment and decree, was further partly allowed by the learned Additional District Judge, Bathinda, vide the impugned judgment and decree.

2. On the last date of hearing, when this Court was not at all agreeable to interfering in the enhancement of maintenance ordered by the learned Lower Appellate Court, whereby it enhanced the monthly amount of maintenance to be paid by the appellant to the respondent/plaintiff from ₹7,000/- to ₹15,000/-, learned counsel had submitted that he restricted the claim only with regard to the arrears ordered to be paid by the Court below. He submitted that since it was the respondent/plaintiff's own plea in the plaint, that she had been thrown out of her matrimonial home only three months prior to the filing of the suit, the Courts below had wholly erred in granting arrears of maintenance for a period of three years prior to the filing of the suit, as obviously during the period prior to three months, she was staying in her matrimonial home and as such, there would be no cause for granting her arrears for the period when she was staying there.

3. Though on merits that issue may otherwise have been needed to be looked at, after considering all pleas taken in the plaint, however, I am not inclined to interfere even with that part of the impugned judgment at the stage of a second appeal, in view of the fact that admittedly, the appellant/defendant did not challenge the judgment and decree of the learned Civil Judge in any respect before the first Appellate Court. The judgment now impugned is that of the first Appellate Court, which was delivered on an appeal filed by the respondent/plaintiff seeking enhancement of compensation.

4. Consequently, having accepted even the arrears to be paid by him

to the respondent/plaintiff for a period of three years, though at a lesser rate of ₹7,000/- p.m (as awarded by the Civil Judge), the plea that learned counsel is now taking at the stage of the second appeal, is not maintainable.

5. As regards the merits of the issue with regard to enhancement of the monthly maintenance amount awarded to the respondent, it is seen that a finding of fact was recorded by the Courts below, that the appellant is the owner of 145 kanals of agricultural land (about 18 acres). Taking that fact, and assessing the annual income from such land to be ₹40,000/- per acre, the learned lower Appellate Court enhanced the maintenance from ₹7000/- to ₹15000/- per month, as already said hereinbefore.

6. If ₹40,000/- is accepted to be the annual yield which would be the income from one acre, which this Court also does not find to be excessive, as that would be the approximate income even if the land were leased out, then the annual income of the appellant works out to ₹7,20,000/- per annum or ₹60,000/- per month.

Of that monthly income of ₹60,000/-, maintenance to the extent of ₹15,000/- only, in favour of the respondent/plaintiff, is not found to be excessive in any manner by this Court. This is of course without prejudice to the rights of the respondent/plaintiff for any enhancement that she may seek, which issue would of course be examined on its own merit, in any appropriate proceedings, if filed by her.

7. Consequently finding no merit in the appeal, it is dismissed in *limine*, but with no order as costs.

August 19, 2016
seema

(AMOL RATTAN SINGH)
Judge