

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 4141 of 2013 (O&M)
Date of Decision : 28.05.2016

Iqbal Singh

....Appellant

Versus

Paramjit Kaur

....Respondent

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Mandeep K. Dhot, Advocate
for Mr. K.S. Dadwal, Advocate
for the appellant.

Mr. Raman K. Sharma, Advocate
for the respondent.

Surinder Gupta, J.

This is Regular Second Appeal by defendant-appellant Iqbal Singh against the judgment of Civil Judge (Junior Division), Kharar, allowing maintenance of ₹4000/- per month to plaintiff-respondent Paramjit Kaur wife of defendant-appellant; creating first charge over the land of defendant-appellant for this maintenance and further restraining him from alienating the same.

2. Case of plaintiff, in brief, is that she got married with Iqbal Singh-defendant-appellant on 06.12.1992 and from this marriage no child was born. The defendant-appellant started quarreling with plaintiff over trifle issues; threatened her to leave the house and also refused to maintain her. He is a police constable and at the time of filing of petition, was getting salary of ₹8500/- per month.

3. Defendant-appellant admitted his matrimonial relation with plaintiff and his employment as constable with Punjab Police. However, he took the plea that he was misled at the time of marriage that plaintiff is

working as a staff nurse in Civil Hospital, Mohali. He also levelled allegations of misbehave and cruelty against plaintiff.

4. Keeping in view income of the defendant-appellant, learned Civil Judge (Junior Division), Kharar allowed maintenance of ₹4000/- per month to plaintiff. In appeal maintenance allowed by Civil Judge (Junior Division), Kharar was maintained and affirmed by learned Additional District Judge, SAS Nagar, Mohali, who took into consideration the salary of defendant-appellant, which was ₹17534/- at that time. The plea of appellant that respondent has rented out a portion of his house and getting ₹2200/- per month as rent was discarded for want of any evidence to prove this fact.

5. I have heard learned counsel for the parties and perused the lower Court record with their assistance.

6. Learned counsel for the appellant while challenging the claim of plaintiff-respondent seeking maintenance has put-forth two arguments. Firstly, that appellant as well as respondent both are residents of Chandigarh but the suit seeking maintenance was filed at Kharar; and secondly, she is getting ₹2200/- per month as rent of the portion of house of the appellant which she has rented out to a tenant.

7. Learned counsel for the respondent has argued that no plea was raised by the appellant in written statement that Civil Court at Kharar lacks jurisdiction in the matter. This argument has been raised by learned counsel for the appellant for the first time in this appeal. This submission of learned counsel for the appellant that respondent is getting ₹2200/- per month as rent by letting out a portion of his house was also not substantiated by any evidence on record. Even otherwise, present salary of the appellant is more

than ₹35,000/- per month and the maintenance allowed by learned Civil Judge (Junior Division), Kharar is quite meagre.

8. On perusal of the record, I find that both the submissions of learned counsel for the appellant carry no weight. Learned counsel for the appellant has not pointed out that the plea was raised before learned Civil Judge (Junior Division), Kharar that Court at Kharar lacks jurisdiction to try the suit filed by plaintiff-respondent. This plea was required to be raised by the appellant at the first available opportunity and if he has not raised this plea, the same is deemed to be given up.

9. Learned Ist Appellate Court has discussed and discarded this submission of learned counsel for the appellant that plaintiff-respondent is getting rental income of ₹2200/- per month for want of any evidence in this regard. Fairly enough, learned counsel for the appellant has not submitted that the above observations of Court below are based on misreading of evidence or some vital evidence has been missed or ignored.

10. No other argument has been advanced by learned counsel for the appellant.

11. In view of above discussion, I find no reason to interfere with the well reasoned judgment of Court below. No substantial question of law requiring determination arises in this appeal, which has no merit.

Dismissed.

May 28, 2016
jk

(SURINDER GUPTA)
JUDGE