

SUNITA RANI VS MANJIT SINGH

Present: Mr. Gurcharan Dass, Advocate
for the appellant.

Mr. Bhoop Singh, Advocate
for the respondent.

Heard the submissions made on either side.

This is an application filed under Section 24 of the Hindu Marriage Act by the appellant-wife seeking maintenance pendente lite.

Of course, it was argued on the side of the respondent citing a decision of the Hon'ble Supreme Court in '**Yamunabai Anantrao Adhav Vs. Anantrao Shivram Adhav and Another (1988) 1 SCC 530**' that the appellant who has suffered a decree under Section 5 of the Hindu Marriage Act is not entitled to maintenance pendente lite.

That was a case where a Hindu woman had invoked the provision under Section 125 Criminal Procedure Code, 1973 praying for maintenance. It was also established in that case that the Hindu male therein was infact living with another spouse at the time when the Hindu woman married him after the Hindu Marriage Act 1955 came into force.

In the instant case, ofcourse, the respondent has got a decree under Section 5 of the Hindu Marriage Act but the fact remains that he was directed by the Trial Court to pay maintenance pendente lite under Section 24 of the Hindu Marriage Act. It is the admitted case that he has been paying the said amount as awarded by the Trial Court during the pendency of the proceedings. It is not in dispute that the appellant and the respondent have been living together as husband and wife for about 10 long years.

Thereafter, the respondent has set up a plea that the appellant had a spouse

living at the time when he got married with the respondent.

In our considered view even under the above circumstances the appellant cannot be left in the lurch without any provision for her maintenance, more especially when she had been living with the respondent as wife for the past about 10 long years with the blessing of a child.

As the respondent has been paying a sum of Rs.5,000 per month to the appellant as per the orders passed by the Trial Court during the pendency of the trial proceedings, we are pleased to direct the respondent to pay the same amount per month from the date of the application towards maintenance pendente lite to the appellant. The arrears of maintenance be paid within six months from the date of this order.

A sum of Rs. 20,000 being litigation expenses shall also be paid by the respondent to the appellant by then.

The application is ordered accordingly.

**[M. JEYAPPAUL]
JUDGE**

**[SNEH PRASHAR]
JUDGE**

11.07.2016
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