

THE HON'BLE SRI JUSTICE SANJAY KUMAR
CIVIL REVISION PETITION No. 4563 of 2017

ORDER:

The petitioner is the wife. She filed I.A.No.209 of 2017 in F.C.O.bv P.No.1663 of 2016 before the Family Court, L.B. Nagar, Ranga Reddy, seeking maintenance under Section 24 of the Hindu Marriage Act, 1955 (for short, 'the Act of 1955'). By order dated 16.06.2017, the Family Court, Ranga Reddy, allowed the petition in part granting Rs.15,000/- per month towards maintenance of the child but dismissed the I.A. insofar as the petitioner was concerned. Aggrieved thereby, she is before this Court under Article 227 of the Constitution.

Notice having been served, Sri Kiran Palakurthi, learned counsel, entered appearance on behalf of the husband.

Perusal of the order under revision reflects that the only ground on which the petitioner's claim for maintenance was rejected was that she is a qualified Doctor having a M.B.B.S. Degree and therefore, she could earn money by undertaking a job as a Doctor in any hospital. This Court is of the opinion that such reasoning is fallacious as merely because the wife has the capacity to earn, it would not disentitle her to maintenance under Section 24 of the Act of 1955. It is only if the wife is already having sufficient means, be it by way of a being salaried employee or through property or business income, the same can be taken into consideration while adjudicating her claim under Section 24 of the Act of 1955 for maintenance from the husband. In the present case, the Family Court, Ranga Reddy, did not even enquire as to whether the petitioner was actually employed and baldly stated that she has the capacity to earn

money by undertaking a job. Thus, the consideration of the petitioner's application under Section 24 of the Act of 1955 is patently erroneous.

The order under revision is accordingly set aside and the matter is remitted to the file of the Family Court, Ranga Reddy at L.B. Nagar, for consideration afresh of I.A.No.209 of 2017 in F.C.O.P.No.1663 of 2016. It shall be open to both parties to adduce evidence. As this is the second round of litigation, the Family Court shall endeavour to dispose of the I.A. expeditiously and preferably within six weeks from the date of receipt of a copy of this order.

The civil revision petition is accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

Date: 24.11.2017
va

JUSTICE SANJAY KUMAR

