

116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1404 of 2017

Date of decision: February 28, 2017

Asha Rani

....Petitioner

Versus

Krishan Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Parminder Singh, Advocate
for the petitioner.

JASPAL SINGH, J.(ORAL)

By virtue of the instant petition preferred under Section 227 of Constitution of India, petitioner has sought *setting aside* of order dated 24th January, 2017 to the extent whereby an application for maintenance *pendente lite* has been rejected and inadequate litigation expenses only to a meager sum of Rs.5,500/-, has been awarded.

During the course of arguments, it has emerged that respondent-Krishan Kumar, husband of the petitioner was having ancestral property i.e. 9 acres of agricultural land in his name but in order to avoid or defeat the payment of maintenance to the petitioner as well as her minor daughter who is aged about 4 years, he has executed release deed in favour of his married sister. This fact has been ignored by the trial Court simply on the ground that it is a matter of evidence and can be taken into consideration at the time of final disposal of the divorce petition. As far as the grant of maintenance to the petitioner as well as her minor daughter is concerned, it cannot be said to be adequate as per the requirement to be meted out for survival. Impugned order dated 24th January, 2017 passed by the Additional District Judge, Kurukshetra is not sustainable in the eyes of law and deserves to be *set aside*.

Accordingly, by allowing the instant petition, impugned order dated 24th January, 2017 is *set aside* and the learned Additional District Judge, who is seisin of the matter, is directed to consider all the documents as well as legal proposition applicable to the facts of the case and the conduct of the respondent-husband and then to pass a fresh order keeping in view the status/income of the petitioner and her minor daughter as well as income of the respondent-husband. Consequently, application under Section 24 of Hindu Marriage Act shall be decided afresh within a period of two months from the date of receipt of certified copy of this order and at the same time, if respondent-husband still feels aggrieved against the said order, he would be at liberty to approach this Court as he has not been given the notice of this petition which would otherwise be nothing but wastage of the time and money of the respondent.

Disposed of.

February 28, 2017
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No