

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

**Civil Revision No.2311 of 2017
Date of Decision: 29.08.2017**

Deepak Suri

.....Petitioner

Vs

Neha Suri

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vivek Suri, Advocate
for the petitioner.

Mr. Ameet Awasthi, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

[1]. This revision petition has been preferred by the petitioner against the order dated 20.03.2017 passed by the District Judge, Panchkula whereby an amount of Rs.32,000/- per month was awarded towards maintenance *pendente lite* from the date of filing the application and an amount of Rs.20,000/- as litigation expenses to the respondent-wife.

[2]. Brief facts are that the petitioner filed a petition under Section 13 (i)(a), (i)(b), (iii) of the Hindu Marriage Act (for short 'the Act') for grant of decree of divorce. In the said petition, the

respondent Neha Suri filed an application under Section 24 of the Act for the grant of maintenance *pendente lite* and litigation expenses. It was contended by the respondent that a female child took birth from the wedlock, who was under the care and custody of respondent. The minor child was suffering from 'Nephrotic Syndrome (Kidney failure)' and was a school going child. It was further pleaded by the respondent that earlier she was working in a private company and in May, 2016, she lost her job and since then she was unemployed and has no source of income to maintain herself and her minor ailing child. Petitioner is a qualified engineer and is working as Deputy Manager Application Engineering in M/s Borg Warner Emissions Systems India Pvt. Ltd. Gurgaon and was earning Rs.18 lacs per annum. With these pleadings, the respondent claimed maintenance to the tune of Rs.75,000/- per month, besides litigation expenses of Rs.25,000/-. Since the female child was suffering from 'Nephrotic Syndrome (Kidney failure)' and was under treatment, an amount of Rs.35,000/- per month was claimed towards her treatment, education and clothing etc. Besides claiming the aforesaid amount, the respondent also claimed rental to the tune of Rs.15,000/- per month.

[3]. The aforesaid application was contested by the petitioner on the ground that the respondent is gainfully

employed in a private company and was earning Rs.8 lacs per annum.

[4]. From the pleadings and material on record, the Court below found that the average salary of the petitioner was Rs.75,000/- per month approximately after deductions. The respondent by way of her affidavit stated that she remained in job till April 2016 and was earning Rs.20,000/- per month, but since then she was unemployed. The petitioner could not contradict the aforesaid assertion made by the respondent by way of affidavit..

[5]. Learned counsel for the petitioner by relying upon **Rupali Gupta vs. Rajat Gupta, 2016(4) R.C.R. (Civil) 340 DB Delhi** contended that when the wife is found to be qualified and in job for some time, then she is not entitled to any interim maintenance.

[6]. On the other hand, learned counsel for the respondent by relying upon **Ruchi Rai Sehmbey and Ors. vs. Simon Jason Sehmbey @ Haminder Sehmbey, 2013(43) R.C.R. (Civil) 673 DB Delhi** contended that if the wife is unemployed and her employment was in existence some times ago and if there is no material on record that to show that she is likely to get employment in near future, then her previous status cannot

debar her from claiming maintenance *pendente lite*.

[7]. I have considered the rival submissions made by learned counsel for the parties and I am of the view that the respondent wife was in employment till April 2016 and she was earning Rs.20,000/- per month, but thereafter she is not in employment. She has executed an affidavit to this effect which has not been controverted by way of any cogent material by the petitioner. The ratio of **Rupali Gupta's** case (supra) cannot be applied to the instant case as in the said case, the wife was found to be in employment at the time of filing of the application and that is why the interim maintenance was not granted in her favour by the Court. The grant of maintenance is to prevent vagrancies and destitution of the wife.

[8]. In the instant case, the ailing female child is suffering from 'Nephrotic Syndrome (Kidney failure)' and requires huge amount to be spent towards her treatment and education. The earlier employment of the respondent-wife cannot be considered for debarring her from claiming maintenance *pendente lite*.

[9]. In view of facts and circumstances of present case where a child is suffering such an ailment which requires constant care and custody of the minor. The child is 10 years of

age and studying in 4th class. The said status of the child would also requires healthy amount to be spent on her education. Keeping in view the earning capacity of the petitioner, it cannot be said that an award of Rs.32,000/- per month towards maintenance *pendente lite* and amount of Rs.20,000/- towards litigation expenses are on the higher side. The amount of Rs.15,000/- deposited by the petitioner pursuant to the order dated 05.04.2017 is allowed to be withdrawn by the respondent by moving an appropriate application in the aforesaid context.

[10]. In view of above, I do not see any error of jurisdiction in the impugned order passed by the Courts below. This revision petition is accordingly dismissed.

August 29, 2017

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No