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

Sr. No.108

**Civil Revision No.3221 of 2017
DECIDED ON: May 30, 2017**

MAN MOHAN MITTAL

..PETITIONER

VERSUS

SHALINI

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Ms. Aruna Sachdeva, Advocate,
for the petitioner.

JASPAL SINGH, J.

Through the instant civil revision preferred under Article 227 of the Constitution of India, petitioner has sought the setting aside of order dated March 04, 2017 (Annexure P-3) passed by learned Additional District Judge, Jagadhri in CIS No.HMA/1432 of 2014, whereby the petitioner's defence has been struck off.

2. Undisputably, the marriage of the petitioner was solemnized with the respondent on August 03, 2009 as per Hindu rites and ceremonies at Chandigarh. Since, the relation between the parties became strained

which led to the filing of a petition under Section 13 of Hindu Marriage Act, 1955 (for short 'Act' only) for dissolution of marriage. During the pendency of the aforesaid petition, the respondent-wife moved an application under Section 24 of the Act seeking maintenance pendente lite @ ₹20,000/- per month as well as litigation expenses to the tune of ₹5,500/-. After hearing, learned counsel for the parties, learned Additional District Judge, Yamuna Nagar at Jagadhri directed the petitioner to pay a sum of ₹2,500/- per month as maintenance allowance as well as ₹2,500/- as litigation expenses vide impugned order dated January 07, 2016. Since, the petitioner-husband failed to make the payment of maintenance pendente lite in compliance of order dated January 07, 2016, the defence of the petitioner was struck off vide impugned order dated March 04, 2017.

3. The contention of the learned counsel for the petitioner is that earlier petitioner used to run a C.D. Video rental and sale shop prior to the marriage. But now that era of C.Ds and Videos is over as the people watch movies on mobile phones or lap tops etc. by downloading the same from U-Tube or other sources. Thus, the business of the petitioner has come to a stand still. Otherwise also, the petitioner has been involved by the respondent-wife into repeated rounds of litigation. He is shuttling between Ambala and Yamuna Nagar almost on daily basis. The petitioner intended to bring his wife as well as his son back to the matrimonial home but in vain, rather on one hand she has denied herself to be his wife of the petitioner and on the other, she has filed a divorce petition along with an application under Section 24 of the Act. In order to bring the petitioner out of depression, his father has asked him to look after his shop of newspapers

and magazines. But from that shop, he is not earning anything. He is just assisting his father and family. The petitioner has no independent source of income to pay the maintenance pendente lite in compliance of order dated January 07, 2016. However, if he is allowed to make the payment of arrears of maintenance allowance on a monthly basis to the tune of ₹2000/- or ₹2,500/- per month, he can make an endeavour in this regard.

4. While concluding his arguments, learned counsel for the petitioner has submitted that taking into consideration the financial position of the petitioner, the impugned order deserves to be set aside and the matter is required to be dealt with and disposed of on the merits.

5. This court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but find the same to be of no legal or factual weight.

6. Concededly, the respondent is the legally wedded wife of the petitioner, who has preferred a divorce petition under Section 13 of the Act for dissolution of marriage. It is also an admitted fact that vide order dated January 07, 2016, petitioner has been directed to pay maintenance pendente lite @ ₹2,500/- per month besides litigation expenses to the tune of ₹2,500/-. Though, sufficient opportunity has already been afforded to the petitioner to make the payment of arrears of maintenance pendente lite, but he has failed to discharge that liability. Ultimately, the trial court was constrained to struck off the defence of the petitioner. The arrears of maintenance allowance are pending since September, 2014 when the petition under Section 13 of the Act was filed along with application under Section 24 of the Act and it appears that nothing has been paid.

7. Here it would be pertinent to mention that just to assess the bona fide of the petitioner with regard to the payment of the arrears of maintenance allowance, the petitioner was directed to pay 50% of the arrears of maintenance allowance accrued till date vide order dated March 04, 2017 but even in compliance of said order, nothing has been paid.

8. Thus, taking into the case of the petitioner from either of the angles, this court does not find any merit in the instant petition, accordingly the same is dismissed, whereby the impugned order dated March 04, 2017 is upheld.

May 30, 2017
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No