

In the High Court of Punjab and Haryana at Chandigarh

CRM-M-29748 of 2015(O&M)
Date of Decision: July 27th, 2017

Pargat Singh

---Petitioner

vs.

Sukhwinder Kaur and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Rajeshwar Singh Thakur, Advocate
for the petitioner

Ms. Amarjit Kaur, Advocate
for the respondents

Rekha Mittal, J.

The present petition directs challenge against orders dated 21.4.2015 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Chandigarh and dated 28.7.2015 (Annexure P-2) by the Additional Sessions Judge, Chandigarh whereby maintenance was awarded at the rate of Rs. 6000/- to respondent No. 1 and 4000/- to respondent No. 2 by the trial court and the order passed by the trial court has been affirmed in revision.

The petitioner solemnized marriage with Sukhwinder Kaur, respondent No. 1 on 2.3.2002. Out of the wedlock, respondent No. 2 was born on 7.1.2003. There were marital differences between the petitioner

and respondent No. 1 and the parties got entangled in civil as well as criminal litigation. The respondents filed application under Section 125 of the Code of Criminal Procedure (in short “Cr.P.C.”) in June 2009 that came to be decided by the trial court in April 2015 and the respondents have been allowed maintenance from the date of filing of the application.

The sole submission made by counsel for the petitioner is that the courts below have committed a serious error rather illegality by allowing maintenance at the rate of Rs. 10,000/- per month from the date of application. To substantiate his contention, it has been argued that in the years 2009 to 2011, salary of the petitioner was ranging between 10,000/- to 15,000/- per month, therefore, liability of the petitioner to pay pendente-lite maintenance may be reduced to what was allowed as interim maintenance.

Counsel for the respondent, on the contrary, would urge that in addition to salary drawn by the petitioner being an employee of Panjab University, Chandigarh, he is co-owner of land recorded in the jamabandis. It is further submitted that during pendency of the proceedings before the trial court, the petitioner was promoted as Junior Assistant and then Senior Assistant and his salary was increased from time to time due to grant of annual increments and additional benefits on account of promotion. Further submitted that sum of Rs. 10,000/- per month may not be sufficient to meet daily requirements of the respondents what to talk of providing for education of the child, clothing, housing much less comforts and luxuries to both

I have heard counsel for the parties and perused the paper book with the able assistance of counsel for the parties.

The petitioner is working with Panjab University, Chandigarh and he is due for retirement on 31.12.2036. Perusal of the documents marked as exhibits and a part of the paper book would make it apparent that in March 2009, total emoluments of the petitioner were Rs.10,228/- and till December 2011, salary of the petitioner was approximately Rs. 15000/- per month. The petitioner is recorded to be co-owner of land measuring 5 kanals 1 marla to the extent of 1/4th share whereas he was co-owner to the extent of 1/6th share out of land measuring 9 kanal 9 marlas but the said land is recorded to be sold by him in favour of Tejinder Kaur wife of Surjit Singh and mutation No. 1457 dated 18.12.2014 with regard to the sale was entered. Share of the petitioner out of these two chunks of land comes to less than 3 kanals.

The respondents were awarded interim maintenance at the rate of Rs. 2500/- per month by the trial court but it was enhanced to Rs. 3500/- per month by the revisional court. Later, the respondents filed application for enhancement of interim maintenance and maintenance was enhanced to Rs. 6,000/- per month vide order dated 16.1.2013 (Annexure P-6) from the date of promotion of the petitioner as Senior Assistant. It is not clear from the records as to the exact date when the petitioner was promoted as Senior Assistant.

Taking into consideration salary of the petitioner from June 2009 onwards coupled with the land holding co-owned by him to the extent of about 3 kanals in the light of needs of the respondents and liability of the petitioner to provide adequate maintenance to his wife and the child, in my considered opinion, interests of justice would be served if the petitioner is

directed to pay maintenance at the rate of Rs. 5000/- per month with effect from the date of application till May 2011 and Rs. 10,000/- per month with effect from 1.6.2011 onwards.

In view of the above, the present petition stands disposed of with modification in the aforesaid terms.

(Rekha Mittal)
Judge

July 27th, 2017
paramjit

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