

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

CRM-M No. 8024 of 2017(O&M)

Date of decision: 9.3.2017

Surinder Singh Sahota

....Petitioner

VERSUS

Surinder Kaur

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Naresh Kumar Manchanda, Advocate for the petitioner.

REKHA MITTAL, J.(Oral)

The petitioner has challenged order dated 06.01.2016 passed by the Additional Sessions Judge, Moga (Annexure P-1) vide which maintenance granted by the Trial Magistrate has been enhanced to Rs.5,000/- per month from the date of application filed under Section 125 of the Code of Criminal Procedure, 1973 (in short 'Cr.P.C.'). Another order challenged by the petitioner is dated 24.01.2017 (Annexure P-6) passed by the District Judge, Family Court, Moga.

Counsel for the petitioner states that he confines his grievance only qua order dated 24.01.2017 passed by the Court in execution proceedings whereby the petitioner has been directed to pay arrears of maintenance on 21.02.2017. Further submitted that on 21.02.2017, the case has been adjourned to 14.03.2017 for payment of arrears of maintenance. It is argued that application for execution was filed by Surinder Kaur and others for recovery of maintenance of Rs.18,000/- at the rate of Rs.1,500/- per month for the period 24.09.2013 till date and the petitioner has already paid an amount of Rs.18,000/- in the execution proceedings. In the same

proceedings, respondents filed an application pressing their claim for payment of arrears of maintenance at the rate of Rs.5,000/- per month from the date of application. It is argued that amount of arrears of maintenance at the said rate would be more than Rs.5,00,000/- and it is not possible for the petitioner to discharge the liability in lump sum but he is ready to pay that amount by way of installments. It is further submitted that the petitioner is a pensioner, therefore, he is not in possession of sufficient funds to clear his liability regarding arrears in one go.

Without examining the correctness of the plea with regard to inability of the petitioner to pay arrears of maintenance in one go, the present petition is disposed of with liberty to the petitioner to file an appropriate application before the executing Court giving schedule of payment of arrears of maintenance. The application shall be decided by the Court below on merits after providing an opportunity of being heard to both the parties. Till that application is decided, the Court would not press for payment of entire arrears in one go. However, the petitioner shall deposit an amount of Rs.50,000/- with the executing Court on or before 14.03.2017.

MARCH 9, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no