

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

FAO-M-460-2016

Decided on: 18.08.2017

Kulwant Kaur

.... Appellant

Versus

Jaimal Singh

..... Respondent

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Amit Arora, Advocate,
for the appellant.

Mr. H.P.S. Aulakh, Advocate,
for the respondent.

M.M.S. BEDI, J (ORAL)

The appellant-wife had filed a petition under Section 13 of the Hindu Marriage Act for dissolution of her marriage with respondent Jaimal Singh. The respondent-husband was proceeded against exparte resulting an exparte decree of divorce in favour of the appellant. The District Judge, while granting exparte divorce to the appellant, has also allowed the application under Section 25 of the Hindu Marriage Act and directed the respondent to pay a sum of ₹5,000/- per month to the appellant.

It is pertinent to mention that the respondent-Jaimal Singh has opted not to file any appeal against the decree for dissolution of marriage dated 13.10.2016, till date, meaning thereby, that the decree of divorce has become final between the parties.

The appellant has preferred this appeal solely for enhancement of the amount of permanent alimony awarded at the rate of ₹5,000/- per month under Section 25 of the Hindu Marriage Act claiming that the

amount is inadequate taking into consideration the property of the respondent. She claims that the husband is owner of 5 acres of land and is owner of brick kiln and a factory meant for tile manufacturing. Since the respondent was exparte before the lower Court, the claim of the appellant for permanent alimony under Section 25 of the Hindu Marriage Act remained uncontested.

With the assistance of the counsel for the appellant, we have gone through the judgment which indicates that jamabandis and sale deeds regarding the property of the respondent had been produced besides the site plan Ex. PW1/B, which is proved by Draftsman Kulwant Singh. It appears that no evidence has been produced regarding running of the factory of tiles and brick kiln by the respondent. It is debatable whether an entry in the revenue record regarding existence of brick kiln would be sufficient enough to enable the Court to arrive at a conclusion regarding the income being derived from running of the said brick kiln.

We have gone through the pleadings from the record having been summoned. A perusal of the petition filed under Section 25 of the Hindu Marriage Act by the appellant merely refers to the fact that on 07.07.2000 respondent has re-married with one Rajwinder Kaur and a son and a daughter having been born from the said relationship. She has pleaded in her application that the respondent is a man of sources having landed property as per the revenue record to the extent of 18 kanals in joint khata. Details of the income from any brick kiln or tile factory has also not been mentioned.

In view of the said circumstances, we are of the opinion that the amount of ₹5,000/- awarded as permanent alimony per month is not

inadequate, if seen in context with the pleadings and the evidence produced on the record. No ground is made out for setting aside the ex-parte award granted under Section 25 of the Hindu Marriage Act, which is the subject of challenge of the present appeal.

The appeal is dismissed. It is, however, observed that the dismissal of the appeal will not prejudice the right of the parties to avail the remedy under Section 25(2) of the Hindu Marriage Act to seek the modification of the order of maintenance by establishing the changed circumstances, if any, in accordance with law.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

18.08.2017
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No