

FAO-6500-2017 (O&M)

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

FAO-6500-2017 (O&M)

Date of Decision: 28th September, 2017

Mukhtiyar Singh

...Appellant

Versus

Jasvir Kaur

...Respondent

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

Present: Mr. Sandeep K. Sharma, Advocate
for the appellant.

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

Appellant-husband had obtained an *ex parte* decree of divorce on 10.12.2014, which has been sought to be set aside under Order 9 Rule 13 of the Code of Civil Procedure by the respondent-wife. During the pendency of the said proceedings, the respondent-wife had filed an application under Section 24 of the Hindu Marriage Act on 06.07.2017, which has been allowed vide impugned order dated 22.08.2017 on the ground that the appellant-husband is working as Driver and a sum of ₹ 5,000/- per month has been ordered to be paid as maintenance *pendente lite* during the pendency of the proceedings before the Family Court, S.B.S. Nagar and a sum of ₹ 5,000/- has been awarded as litigation expenses to the respondent-wife.

Aggrieved by the order dated 22.08.2017, the husband has preferred the present appeal.

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Counsel for the appellant *inter alia* submits that as per the provisions of Section 24 of the Hindu Marriage Act, no amount can be awarded to the respondent-wife as the relationship between the husband and wife ceased to exist with the *ex parte* decree awarded in favour of the appellant and that the application for condonation of delay is also pending before the Family Court.

We have considered the said submissions of the learned counsel for the appellant in context to the language of Section 24 of the Hindu Marriage Act, which reads as follows:-

“24. Maintenance pendente lite and expenses of proceedings :- Where in any proceeding under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable:

Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding, shall, as far as possible, be disposed of within sixty days from the date of service of

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notice on the wife or the husband, as the case may be.”

A perusal of the aforesaid provision of law shows that the scope of grant of maintenance *pendente lite* and expenses of proceedings under Section 24 of the Hindu Marriage Act is quite wide as the words used by the Legislation in the said provision are “**Where in any proceedings under this Act**”. The proceedings under the Hindu Marriage Act would include the application under Order 9 Rule 13 of CPC for setting aside an *ex parte* decree of divorce, which was granted under Section 13 of the Hindu Marriage Act.

We are of the opinion that an application for condonation of delay to set aside an *ex parte* decree granted under the Hindu Marriage Act would also be proceedings falling under the expression “**any proceedings**”, which cover Section 24 of the Hindu Marriage Act. In this context, reference can be made to the judgment of Bombay High Court in **Vinod Kumar Kejriwal Vs Usha Vinod Kejriwal**, AIR 1993 (Bombay) 168, wherein, it has been observed that the words “proceedings under the Act” appearing in Section 24 cannot be given a narrow and restrictive meaning.

We do not find any force in the contention of the learned counsel for the appellant regarding non-maintainability of the application under Section 24 of the Hindu Marriage Act filed by the wife. On considering the quantum of maintenance *pendente lite*, we are of the opinion that a sum of ₹ 5,000/- as maintenance *pendente lite* awarded to the wife, who has no source of income, appear to be bare minimum amount to enable her to survive and a sum of ₹ 5,000/- as litigation expenses is also a

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minimum amount, which could have been awarded by the Court.

No ground is made out to interfere in the impugned order dated 22.08.2017 passed by the District Judge (Family Court), S.B.S. Nagar. The appeal stands dismissed.

CM-20811-CII-2017

In the light of the dismissal of main appeal, the prayer made in the present application for staying the operation of the impugned order has rendered infructuous.

The misc. application is disposed of as such.

(M.M.S. BEDI)
JUDGE

28th September, 2017
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No