

KULBIR SINGH
V/S
RAJWINDER KAUR

Present: Mr. Manish Prabhaker, Advocate,
for the applicant-respondent.

Mr. Rohit Ahuja, Advocate,
for the non-applicant/appellant.

This order will dispose of an application under Section 24 of the Hindu Marriage Act, 1955 for maintenance pendente lite @ Rs.50,000/- per month filed by respondent-wife claiming that the husband-appellant is a rich person and earning a sum of Rs.3 lacs per month in dollars in Canada.

Learned counsel for the non-applicant/appellant has contested the application denying his earning capacity to the extent of Rs.3 lacs but has admitted that he is maintaining a wife Veerpal Kaur and three children in Canada.

Learned counsel for the non-applicant/appellant has submitted that a sum of Rs.33,000/- has already been paid as litigation expenses and the respondent-wife has already received a sum of Rs.11,50,000/- as part of the permanent alimony in proceedings under Section 13-B of the Hindu Marriage Act which could not be culminated in dissolution of the marriage. He has further submitted that marriage of the non-applicant/appellant with applicant-respondent by way of *chadar-andaji* would be a nullity as the appellant already had a legally wedded wife.

We have considered the said contention and are of the opinion that after marriage of the appellant with respondent Rajwinder Kaur, a

daughter was born out of the marriage. The appellant is estopped from denying the relationship in view of his conduct as he cannot now turn around stating that he was already married at the time of performance of his marriage with applicant-respondent.

The non-applicant/appellant having himself filed an application under Section 13-B of the Hindu Marriage Act earlier, cannot at this stage, deny the relationship to evade his liability arising out of the matrimonial relationship with the respondent.

Be that as it may, the application under Section 9 of the Hindu Marriage Act, filed by the respondent, has been allowed by the lower Court.

We also do not believe the contention of learned counsel for the non-applicant/appellant, who is staying in Canada having a family, is unable to earn anything. On the basis of fair estimation regarding his earning capacity abroad, it is presumed that he would not be earning less than a sum of Rs. 1 lac per month in Indian currency. No document has been placed on record by the non-applicant/appellant indicating that he is unemployed person in Canada or he is having a meagre income.

Application under Section 24 of the Hindu Marriage Act for maintenance pendente lite, is allowed. The applicant-wife is awarded a sum of Rs.55,000/- as litigation expenses. A sum of Rs.33,000/- already paid would be deductible from the said litigation expenses.

Applicant-wife will be entitled to maintenance pendente lite at the rate of Rs.25,000/- per month. It will be open to the non-applicant/appellant to pay this amount in foreign currency by transfer in

legalised manner. The amount will be payable with effect from the date of the application i.e. 08.09.2016.

For payment of the arrears of maintenance and balance of litigation expenses, adjourned to 09.10.2017.

**(M.M.S. BEDI)
JUDGE**

August 16, 2017.
harsha

**(AUGUSTINE GEORGE MASIH)
JUDGE**