

CMM-143-2015 and FAO-M-344-2015

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

**CMM-143-2015 and
FAO-M-344-2016.
Decided on: December 8, 2017.**

Narain Dutt Gupta

.. Appellant

VERSUS

Neena Sharma

.. Respondent

*** * ***

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

*** * ***

**PRESENT Mr.I.S.Pabla, Advocate,
for the appellant.**

**Mr.S.S.Dinarpur, Advocate,
for the respondent.**

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

CMM-143-2015

Aggrieved by the dismissal of his petition for divorce,
the husband has preferred the present appeal.

During pendency of the appeal, the respondent-wife filed
an application under Section 24 of the Hindu Marriage Act, for the grant of

maintenance pendent lite @ Rs.1,50,000/- per month and litigation expenses to the tune of Rs.2 lac, claiming that the appellant/husband is a retired Headmaster from Punjab Government and he is getting pension to the tune of Rs.20,000/- per month. Besides this, he is owner of two storey house in Rajinder Nagar, Kurukshetra, valuing Rs.1.5 crore and he is also the owner of two shops and is doing the business of electrical shop in the name of M/s Rahul Enterprises, Paras Cinema Road, District Kurukshetra. He is maintaining a car and bike and is owner of industrial plot at Baddi in Himachal Pradesh. He is also allegedly earning Rs.20,000,- per month from Newspper 'Jag Marg' being a correspondent. As such, it is claimed that his total income is Rs.3,50,000/- per month.

Appellant/husband has contested the application and in the reply filed, the appellant/husband has claimed that he does not own the house mentioned in the application. Another house is stated to be in the name of his son who stays separately from him and is solely owned by his son. The shop mentioned in the application is stated to be sold out on 4.12.2015. Regarding running of business of electrical goods, it is averred that the same is in the name of wife of Rahul Gupta son of the appellant/husband. The other shop is also stated to be in the name of his son Rahul Gupta. It is claimed by the appellant/husband that the applicant-wife is a practicing Advocate and frequently visits District Courts for conducting cases and is staying in her own house at Kurukshetra, wherein two shops have been constructed in front of the house.

We have considered the vague averments in the application as well as similar vague averments in the reply which are not

supported by any document pertaining to the ownership of the properties. The value and ownership of the properties is absolutely immaterial for adjudication of the application under Section 24 of the Hindu Marriage Act, as it is not the case of the respondent-wife that any income is being derived from the properties mentioned in the application. The fact that the appellant/husband has retired from service and is getting pension is not disputed.

On asking of the Court, it has been informed that a sum of Rs.7,000/- per month was awarded to the respondent-wife in proceedings under Section 24 of the Hindu Marriage Act, before the lower Court.

Going through the averments, the photographs and the material placed on record, it is apparent that the appellant/husband has transferred two shops in the name of his grand-son. Copy of the transfer deeds have been placed on record. The documents placed on record also reflect that the appellant/husband is also doing the work as a Journalist and has got connection with the earnings of the shop, photograph of which has been placed on record showing the presence of the appellant/husband in the shop. We arrive at a conclusion that the non-applicant being retired Headmaster is also having income through his pension. Without getting into the minor details, we arrive at the conclusion that in order to evade his liability towards the respondent-wife during pendency of the matrimonial proceedings, he has taken steps to transfer his two shops in the name of his grand son.

Pension of appellant/husband is admitted to be Rs.20,000/- per month. The other sources of income would certainly make

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his earnings to Rs.40 to 50 thousand per month. Document indicating his recent visit to Dubai has been relied upon by the respondent-wife showing that he is living affluent life.

We have also considered the contention of the learned counsel for the appellant/husband that he is not in talking terms and does not have good relations with his son. The said contention appears to be false on the face of it as he has transferred the property in the name of his grandson during pendency of the proceedings and on the other hand, when the question of maintenance towards his wife is to be considered, he denies to have any relationship with his son.

Be that as it may, his income is assessed to be roughly Rs.40 to 50 thousand per month including the pension received by him. It is necessary to observe here that the details of the revised pension in new scale have also not been furnished.

In view of above circumstances, the respondent-wife is granted maintenance pendent lite @ Rs.15,000/- per month w.e.f from the date of application i.e. August 2015. A sum of Rs.50,000/- is awarded towards litigation expenses. The amount of Rs.20,000/- earlier paid towards interim litigation expenses will be liable to deducted.

The application under Section 24 of the Hindu Marriage Act, is allowed in the above terms.

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At this stage, counsel for the appellant-husband states that he has got instructions to withdraw the present appeal.

The appeal is disposed of as withdrawn without prejudice

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to the right of the wife to execute the order which has been passed in the application under Section 24 of the Hindu Marriage Act.

(M.M.S. BEDI)
JUDGE

December 8, 2017.
raj arora

(AUGUSTINE GEORGE MASIH)
JUDGE

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