

Karamjit Singh Vs Ramandip Kaur

**PRESENT Mr.Kuldeep V. Singh, Advocate,
for the appellant-husband.**

**Mr.Vijay Kumar Garg, Advocate,
for the applicant-respondent-wife.**

This order will dispose of an application under Section 24 of the Hindu Marriage Act, filed by the applicant-respondent-wife seeking maintenance pendente lite @ Rs.10,000/- per month for herself and the minor son Sahilpreet besides litigation expenses of Rs.30,000/-. It is claimed that she has got no movable or immovable property and has no source of income to maintain herself as well as the minor son whereas appellant/non-applicant/husband is having immovable property at village Bhularheri, Tehsil and District Sangrur and owns 1/4th share in the land measuring 57 bighas 16 biswas. He has income of Rs.1,50,000/- per annum from immovable property and is also earning Rs.20,000/- per month by selling milk.

In the reply filed, it has been admitted that appellant-husband is having only 13 bighas of land and is earning only Rs.1 lac per annum. However, the other sources of income have been denied. A plea in the shape of preliminary objection has been taken that the applicant-wife has involved the appellant-husband in number of cases.

Counsel for both the parties admit that a sum of Rs.4000/- had been awarded as maintenance pendente lite before the trial Court.

We have heard the learned counsel for both the parties.

It is an admitted fact that appellant-husband is owner to the extent of 13 bighas of land. He is an able bodied person and is legally obliged to maintain his son and wife. It is also an admitted fact that a sum of Rs.4,000/- i.e. Rs.2,000/- each has been awarded to the son and wife under Section 18 of the Hindu Adoptions and Maintenance Act, 1956 vide order dated 12.9.2011 regarding which an execution is pending.

Irrespective of the pendency of arrears of maintenance and without prejudice to the right of the wife and the son to seek execution of the arrears, we are of the opinion that the applicant-respondent-wife is entitled to some reasonable amount as maintenance pendente lite under Section 24 of the Hindu Marriage Act in order to enable her to survive during pendency of the divorce proceedings initiated by the appellant-husband. Appellant-husband being an agriculturist and co-owner in the total land measuring 57 bighas 16 biswas in which he will be deemed to be in joint possession, it is estimated that the appellant-husband would not be earning less than Rs.20,000/- per month from the land.

In view of above, application under Section 24 of the Hindu Marriage Act is allowed and applicant-respondent-wife is awarded maintenance pendente lite @ Rs.5000/- per month with effect from the date of application i.e. May 2016. It is made clear that amount of Rs.2,000/- per month each (total Rs.4,000/- per month) awarded to the wife and the son in the proceedings under Hindu Adoptions and Maintenance Act would be adjustable out of Rs.5,000/- per month awarded under Section 24 of the Hindu Marriage Act and will not prejudice the rights of the son to claim maintenance under Hindu Adoptions and Maintenance Act, independently

as per the provisions of law, through his mother. Litigation expenses of Rs.30,000/- are also awarded to the applicant-respondent-wife.

For payment of entire arrears of maintenance pendente lite calculated till 30.9.2017, as well as litigation expenses, to come up on 24.10.2017.

Nothing said in this order will affect the pending execution before any other Court for recovery of arrears of maintenance determined under Section 18 of the Hindu Adoptions and Maintenance Act.

(M.M.S. BEDI)
JUDGE

August 17, 2017.
raj arora

(AUGUSTINE GEORGE MASIH)
JUDGE