CMM-183-2015 in
FAO-M-447-2015

SULEKH LATA VERSUS RANJIT SINGH

Present: Mr. Satbir Rathore, Advocate
for the applicant-appellant.

Mr. R.S. Modi, Advocate
for the non-applicant/respondent.

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This order will dispose of an application under Section 24 of the Hindu Marriage Act, filed by the applicant-appellant/wife, for grant of pendente lite maintenance and litigation expenses claiming that she has got no movable or immovable property and has no source of income to maintain herself as well as her minor daughters Samriti Thakur and Ananya Thakur, aged 11 and 7 years respectively, both students, whereas the respondent is serving in Indian Army, earning more than Rs.30,000/- per month as salary besides having moveable and immovable properties. A similar application under Section 24 of the Hindu Marriage Act, filed before the trial Court, was not allowed for the reason that the applicant-appellant/wife had got a sum of Rs.8000/- per month as maintenance qua her maintenance as well as maintenance towards her minor daughters under Section 125 Cr.P.C. She has claimed litigation expenses of Rs.25,000/- as well.

Counsel for the respondent-husband has vehemently opposed the application on the ground that similar application had been dismissed before the trial Court and therefore, applicant-appellant was not entitled to any relief under Section 24 of the Hindu Marriage Act in this appeal as well. Besides, he has made available on record a copy of pension payment order issued by the office of Principal CDA (Pensions), Allahabad indicating that the respondent-husband has retired on 28.02.2016 and is getting pension with effect from 01.03.2016. The said document further indicates the dearness allowance to the tune of Rs.19290/- besides emoluments for pension at Rs.16,410/- had been sanctioned to the respondent-husband with effect from 01.03.2016. The residual pension per month is shown to be Rs.8205/- per month. The respondent has also been paid net death-cum-retirement gratuity of Rs.4,58,020/-. In view of the matrimonial dispute, it appears that family pension has not been notified in the said document.

We have taken into consideration all the facts and circumstances of the case and we are of the opinion that since the appellant-wife has been residing separately prior to 2012, when the respondent had filed petition for divorce against her and no document has been placed on record to show that she has got any source of income to maintain herself and her minor daughters, she is held entitled to maintenance *pendente lite* under Section 24 of the Hindu Marriage Act besides litigation expenses in this appeal. She has been contesting the divorce petition filed against her by the respondent with effect from 10.05.2012. A sum of Rs.12,000/- per month is held to be a reasonable amount to be paid to the appellant-wife with effect from the date of application i.e. November to 28.02.2016, the date of retirement of the respondent-husband. The appellant-wife will be entitled to a sum of Rs.8,000/- per month with effect from 01.03.2016 during the pendency of the appeal. A sum of Rs.25,000/- as litigation expenses is held to be payable by the respondent-husband to the appellant-wife. A sum of Rs.20,000/- already paid will be deducted from the said amount of litigation expenses.

It is made clear that if the respondent-husband has paid any amount towards the maintenance determined under Section 125 Cr.P.C., the said amount will be adjustable against the amount determined by this Court for payment from the above said arrears of maintenance *pendente lite*.

The application is allowed in the above terms.

For payment of entire arrears of maintenance *pendente lite* calculated till 31.10.2017, as well as litigation expenses, to come up on 16.11.2017.

The entire balance amount calculated will be paid in the Court on the next date of hearing in the shape of bank draft in the name of appellant-wife.

The probability of amicable settlement will be considered on the next date of hearing.

[M.M.S. BEDI]
JUDGE

[AUGUSTINE GEORGE MASIH]
JUDGE

August 30, 2017
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