

ASHISH GUPTA
V/S
SOFIA GUPTA

Present: Mr. Aman Dhir, Advocate, for applicant-respondent.

Mr. Sanjay Jain, Advocate, for non-applicant/appellant.

Reply to the application under Section 24 of the Hindu Marriage Act filed. Copy given.

This is an appeal of the husband against the dismissal of his petition for divorce by the matrimonial Court.

During pendency of the above said appeal, an application under Section 24 of the Hindu Marriage Act for grant of maintenance pendente lite and litigation expenses has been filed by the applicant/respondent-wife claiming that she should be allowed maintenance pendente lite at the rate of Rs. 1 lac per month and a sum of Rs.1 lac should be paid to her as litigation expenses. The non-applicant/appellant-husband undisputedly is a Computer Engineer working with M/s. Dell International Services (India) Private Limited. His income is not less than Rs.2 lacs per month.

On asking of the Court, it has been informed that on the basis of the salary slips and the material made available before the Court, a sum of Rs.40,000/- per month was assessed as maintenance pendente lite besides a sum of Rs.51,000/- having been awarded as litigation expenses, before the trial Court.

Counsel for the applicant/respondent-wife has submitted that the salary of the appellant-husband has enhanced, therefore, amount of Rs. 1 lac per month should be awarded as maintenance pendente lite.

It is not out of place to observe here that amount of Rs.40,000/- awarded per month in proceedings under Section 24 of the Hindu Marriage Act, were challenged before the Supreme Court. The Apex Court vide order dated 07.09.2015 had directed that a sum of Rs.30,000/- could be paid per month as maintenance pendente lite but on account of the proceedings under Section 13 of the Hindu Marriage Act having been finally decided during pendency of SLP, no final order could be obtained by the parties as the proceedings for interim maintenance became redundant and the SLP was disposed of having rendered infructuous.

Without being influenced by any of the above said circumstances, we are of the opinion that a sum of Rs.40,000/- was assessed by the lower Court as long back as on 17.10.2014. With the passage of time, non-applicant/appellant-husband must have got escalation in the salary.

Counsel for the non-applicant/appellant has not denied enhancement in salary but it has been submitted that only nominal increments have been granted to him in the last 2-3 years. It has also been submitted by counsel for the non-applicant/appellant that the non-applicant/appellant is posed at Noida and is staying at Gaziabad. In said circumstances, he has to spend a huge amount on himself. No material has been produced on the record to show that the applicant-wife is earning any amount.

Taking into consideration the fact that the applicant-wife is entitled to maintenance commensurate with the status of her husband in case she is not staying with him, we are of the opinion that a sum of Rs.40,000/-

would be a reasonable amount to be paid as maintenance pendente lite with effect from the date of application along with litigation expenses of Rs. 1 lac. A sum of Rs.20,000/- already paid towards the interim litigation expenses would be reduced from the litigation expenses assessed today.

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

For payment of the litigation expenses and maintenance pendente lite, adjourned to 09.11.2017.

The entire amount calculated till 31.10.2017 with effect from the date of application i.e. January, 2017, will be paid on the next date of hearing.

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

August 29, 2017.
harsha

**(AUGUSTINE GEORGE MASIH)
JUDGE**