IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CMM No.166 of 2017 and
FAO No.M-250 of 2017

Ravinder Kaur
Vs.
Charanjit Pal Singh and another

Present: Ms. Monika Dudani Mehtab, Advocate
for the applicant-appellant.

Mr. Kanwaljit Singh, Senior Advocate
with Mr. Abhishek Bajaj, Advocate
for the respondent.

A sum of ₹25,000/- has been paid in the shape of bank draft to applicant-appellant, Ravinder Kaur present in the Court.

Counsel for both the parties admitted that the expenses for the education of the children have been deposited in the school by the respondent-husband as per the statement of his counsel given in Court on 30.10.2017.

Reply to the application under Section 24 of the Hindu Marriage Act has been filed.

This application has been filed by the applicant-wife in an appeal which has been preferred by her challenging the decree of divorce passed by the Additional District Judge, Chandigarh, on 19.08.2017, in favour of the respondent-husband, seeking maintenance *pendente lite* and litigation expenses for herself and her two minor children.

Marriage between the appellant and the respondent took place on 17.10.2004. She is not even a graduate and never been employed and is, therefore, fully dependent financially upon the respondent-husband. Out of the marriage, two children were born namely Kanwarjit Singh aged around 12 years and a daughter namely Manroop Kaur aged around 9 years. Both are studying in class 6th and 4th respectively in Saupin's School, Chandigarh under the care and custody of the appellant-wife. Respondent-husband, apart from being an able-bodies person, has multiple sources of income and is working along with his father in a flourishing automobile business by the name and style of Walia Auto Store, Sector-28, Chandigarh. He is the only son of his parents and thus the owner of the business. He has agricultural land and other sources of income and frequently visits abroad to various exotic locations and is also maintaining highest variant Innova car apart from having other luxuries at his disposal. An application under Section 24 of the Hindu Marriage Act preferred by the appellant during the trial was allowed, however, the maintenance as granted was challenged by the appellant-wife being inadequate, in this Court by filing CR No.4975 of 2014 which was decided by this Court on 28.05.2015 enhancing it to a sum of ₹40,000/- per month with the breakup of ₹20,000/- to the appellant and ₹10,000/- each to the minor children. The said amount has been enhanced by the trial Court vide order dated 19.08.2017 to ₹50,000/-. Assertion has been made that the respondent-husband, after the decision of the case by the trial Court, has been shirking away from his financial responsibilities towards the appellant and her children because of which she is not in a position to meet the day to day expenses including the educational expenses of the children. Prayer has been made for grant of maintenance *pendente lite* of ₹40,000/- per month for herself and an amount of ₹30,000/- per minor child with effect from 19.08.2017.

Reply to the application has been filed, wherein the husband has not disputed the fact about the marriage, children and that he owns agricultural land measuring 11.5 acres in village Majari Nangal, District Ropar and has further disclosed that he owns half share out of 5 biswas of land in village Attawa, Chandigarh. He has placed reliance upon the income tax returns for the last four years to assert that his total income for the assessment year 2017-18 is ₹6,88,720/- from all sources. Assertion has also been made that the appellant is residing forcibly in an annex of the one kanal house of his parents. The electricity and the water charges are being borne by them. He has categorically stated and committed to look after the welfare of the children and to pay the school fee. Assertion has been made that he is residing separately in a rented accommodation, rent of which now is ₹13,500/-. As regards his income from the work which he is performing with his father, it is stated that he is employed with his father and is drawing salary. His father is running a proprietorship and has dealership of Goodyear India Limited. It is in this context he being an employee of the company that he is going abroad and that too at the cost of the company only which incentives are given to its dealers. It has further been asserted that the respondent has deposited the school fee upto December, 2017. The factum that Civil Revision No.4975 of 2014 was preferred by the appellant, wherein an amount of ₹40,000/- was fixed as maintenance *pendente lite* for her and for the children, has been admitted. Prayer has been made in the light of the above that no maintenance *pendente lite* in the facts and circumstances of the case requires to be granted to the appellant.

We have considered the submissions made by the counsel for the parties and have also gone through the pleadings.

The relevant part of the order dated 28.05.2015 passed in Civil Revision No.4975 of 2014 with regard to fixation of the maintenance *pendente lite* reads as follows:-

> *"After hearing learned counsel for the parties and keeping in view the totality of the facts and circumstances emerging from the available record, I am of the considered opinion that the status of the respondent is not that which is tried to be projected by him because it cannot be believed that he is working in the firm of his father on a meager salary of ₹12,000/- per month and has been sent by the firm of his father to the foreign trips as an employee, even on the promotional offer given by the tyre companies. Moreover, admittedly, he is having 11.5 acres of land in village Majari, Tehsil Nangal, District Ropar and 5 biswas of land at village Attawa, UT, Chandigarh. He is also maintaining 3 accounts in the bank in which as on 15.09.2014, he was having a total sum of ₹10,17,014/- in cash.*
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> *Thus, in view of these facts and circumstances, the present revision petition is hereby allowed and the impugned order passed by the trial Court is modified, holding that the petitioner is entitled to a sum of ₹20,000/- per month as maintenance pendente lite for herself and ₹10,000/- per month each for both the minor children, from the date of application".*

The factum of marriage and the two children and they studying in school is not disputed. It is not in dispute that the wife is not working anywhere and has no independent source of income. The grounds which have been taken by the respondent in the present application, as has been recorded above, stand duly considered by this Court in Civil Revision

No.4975 of 2014. There is no change in circumstances as such. As a matter of fact, since the year 2014 onwards, the income would have gone up of the appellant as it is not asserted by him that his income has gone down.

In view of the above, the present application is allowed.

The applicant-appellant is held entitled to a sum of ₹20,000/- per month as maintenance *pendente lite* for herself and ₹10,000/- each for the two children from the date of the application.

The maintenance *pendente lite* amount has been kept intact for the reason that it has categorically been stated by the respondent-husband in his reply to this application that he commits himself to look after the welfare of the children and bear the educational expenses. The respondent thus apart from the above would be liable to pay the school fee, transportation charges, uniform expenses etc. relatable to the education of the children apart from whatever he on its own would prefer to do for the welfare of the children as has been committed by him in the reply (preliminary submissions). The applicant-appellant is also held entitled to litigation expenses of ₹55,000/- out of which ₹25,000/- already paid, will be deductible.

For payment of arrears of maintenance and litigation expenses, now to come up on 07.03.2018, the date already fixed.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

December 4th, 2017
Puneet