

THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

Civil Revision Petition No.6869 of 2018

ORDER:

S.Tarun Kumar, the petitioner, is aggrieved by the order, dated 19.07.2018, passed in I.A.No.1189 of 2017 in O.P.No.1076 of 2015, by the learned Judge, Additional Family Court, Hyderabad, whereby the learned Family Court has granted an interim maintenance of Rs.5,000/- per month to the respondent-wife from the date of the petition i.e. 29.07.2015, besides granting Rs.5,000/- towards legal expenses, pending disposal of the petition. The learned Family Court further directed that the arrears of maintenance can be paid in three equal monthly instalments, commencing from the month of August, 2018, and that the regular interim maintenance shall be paid on or before 10th day of every calendar month.

Briefly stated, the facts of the case are that, the respondent-wife had filed an application, under Section 24 of the Hindu Marriage Act, praying for grant of interim maintenance of Rs.10,000/- per month from the date of filing of the petition. She claimed in her application that she is the legally wedded wife of the petitioner-respondent. The marriage was performed on 22.05.2011. However, since 05.05.2012, she has been staying with her parental family as she was driven away from her matrimonial home. She is not in a position to maintain herself. Moreover, even her parents are not in a position to look after her well, as they are saddled with other responsibilities. Therefore, she has filed the application under Section 24 of the Hindu Marriage Act.

By the impugned order, the learned Family Court has granted the interim maintenance as aforementioned. Hence, this petition before this Court.

Mr.S.Subba Reddy, the learned counsel for the petitioner, has raised two contentions before this Court: firstly, the petitioner is running a petty footpath business and earning Rs.5,000/- per month. Therefore, the learned Family Court is not justified in granting the interim maintenance @ Rs.5,000/- per month to the respondent-wife. Secondly, although, the petition was filed on 29.07.2015, it was not numbered till the year 2017. Therefore, the learned Family Court is unjustified in directing the petitioner to pay arrears of maintenance from the date of petition i.e. 29.07.2015. Hence, the impugned order deserves to be set aside by this Court.

Heard Mr. S.Subba Reddy, the learned counsel for the petitioner, and perused the impugned order.

A perusal of the impugned order clearly reveals that, although, the petitioner had claimed that he was running a petty business on footpath and was earning Rs.5,000/- per month. But he has not submitted any documentary proof to establish the fact that he was earning merely Rs.5,000/- per month. Moreover, he has admitted that he was carrying out petty business, on the footpath, in front of a jewellery shop, by name “Ratna Jewellers”, which was owned by his family. There was also evidence to show that he was sitting at the counter of the said jewellery shop. Therefore, the learned Family Court was justified in concluding that the petitioner was running the jewellery shop. There is also

the evidence that the petitioner was living with his joint family. Thus, the learned Family Court is justified in concluding that the petitioner had sufficient means to pay Rs.5,000/- per month to the respondent-wife. Therefore, the first contention raised by the learned counsel for the petitioner is clearly unacceptable.

As far as the arrears of maintenance ordered by the learned Family Court is concerned, suffice it to say that the impugned order is an interim maintenance order and the amount paid as an interim maintenance can certainly be adjusted with the final order. Therefore, even the second contention raised by the learned counsel for the petitioner is clearly unsustainable.

For the reasons stated above, this Court does not find any merit in the present revision petition. The Civil Revision Petition is, hereby, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

RAGHVENDRA SINGH CHAUHAN, J.

Date:21.12.2018.

MSB/CS