

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

C.R. No.2606 of 2018 (O&M)

Date of Order: 21.09.2018

Munisha Mitra

....Petitioner

Versus

Bhavika Mitra @ Meenu Arora

....Respondent

CORAM: HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Vidit Bansal, Advocate for the petitioner.
Mr. Amit Dhawan, Advocate for the respondent.

B.S.WALIA, J (ORAL)

[1] Challenge is to order dated 26.5.2011 by the learned Addl. District Judge, Jalandhar granting maintenance of ₹ 6000/- per month to the respondent-wife and ₹ 3000/- per month to minor daughter Diksha.

[2] Brief facts of the case leading to the filing of the present petition are that the petitioner was married to one Laxmi out of whom a girl child Diksha was born. On the death of Laxmi, the petitioner married the respondent Bhavika. An application was filed by the respondent alleging that she as well as petitioner's daughter Diksha had been turned out of the matrimonial home by the petitioner, therefore, maintenance of ₹ 50,000/- per month be awarded to her and Diksha, besides, ₹ 33000/- as litigation expenses as she had no means of sustaining herself and her daughter Diksha besides, the petitioner was a man of means.

[3] Learned counsel for the petitioner contended that the respondent-wife had herself left the company of the petitioner without any

reasonable cause, besides, she was having sufficient income as she was giving tuition's and earning between ₹ 70,000/- to ₹ 80,000/- per month, therefore, she was not entitled to any maintenance. Moreover, the petitioner was earning only ₹ 10,000/- per month and had to provide for his old and ailing mother, therefore, was not in a position to pay maintenance as ordered.

[4] Per contra, learned counsel for the respondent while fully supporting the impugned order contended that the respondent and her daughter had no means of sustenance while the petitioner was a man of means as he was running a business of flex/sign boards in the name and style of "Sign Language" and earning about ₹ 1,00,000/- per month from the said business, therefore liable to provide maintenance as ordered.

[5] I have heard learned counsel for the parties and perused the paper book. Admittedly, daughter Diksha was born to the petitioner from his first wife Laxmi whereas maintenance has been claimed by the respondent-wife Bhavika on the allegation of having been turned out by the petitioner from the matrimonial home along with daughter Diksha. Income tax returns of the petitioner for the year 2014 show his annual income as ₹ 2,64,000/- i.e. ₹ 25,000/- per month. Apart from merely denying not earning ₹ 25,000/- per month and earning only ₹ 10,000/- per month, the petitioner has not placed any material on record to show that his income has fallen from to ₹ 25,000/- per month to ₹ 10,000/- per month and that the respondent is doing tuition work and earning money. Being an able bodied man and a businessman with income of ₹ 25,000/- per month as per income tax return for the year 2014, the plea of the petitioner that he is earning only ₹ 10,000/- per month is not believable as in the absence of any material

placed on record by the petitioner showing his income to have gone down, it cannot be presumed that the petitioner would be earning less than ₹ 25,000/- per month.

[6] Moreover, grant of maintenance vide the impugned order is only by way of interim arrangement during the pendency of the proceedings so that the wife and minor child may not starve as the respondent herein is not only to maintain herself but also the minor daughter of the petitioner from his deceased wife Laxmi. Appropriate maintenance commensurate with the needs of the respondent wife and minor child of the petitioner is a legitimate right of the spouse and minor child of the petitioner keeping in view the paying capacity of the petitioner husband.

[7] Accordingly, taking into account all aspects of the matter, I do not find any circumstances warranting interference with the well-reasoned order passed by the learned trial Court awarding maintenance ₹ 6000/- per month to the respondent-wife and ₹ 3000/- per month to the minor child. In the circumstances, the revision petition being bereft of merit is accordingly dismissed as such.

September 21, 2018
manoj

(B.S.WALIA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No