

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

C.R No.8565 of 2016

Rajwinder Kaur & Anr.

....Petitioners

Versus

Kundan Singh

....Respondent

Date of Order: 05.4.2018

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. G.S. Sirphikhi, Advocate for the petitioners.

Mr. B.S. Jaswal, Advocate for the respondent.

AMIT RAWAL, J (ORAL)

Present revision is directed against the impugned order dated 29.11.2016 (P.9) passed by learned Addl. Civil Judge (Sr. Division), Baba Bakala whereby the application filed by the petitioner for striking off the defence of the defendant-respondent for non-payment of interim maintenance has been dismissed.

The plaintiffs filed the suit for maintenance under Sections 19 & 20 of Hindu Adoption and Maintenance Act, 1956 against the respondent/father-in-law for claiming maintenance. In the aforesaid suit, the trial Court vide order dated 16.9.2015 granted interim maintenance of Rs.5000/- p.m to petitioner No.2/grand-son. It is alleged that defendant-respondent failed to pay the interim maintenance, which is around Rs.3 lacs.

Learned counsel for the petitioner submitted that the trial Court has erroneously passed the impugned order by relying upon a Division

Bench judgment. The approach of the trial Court is not only fallacious but based on misconception, thus the order is liable to be set aside.

Learned counsel for the respondent submitted that a cheque of Rs.1 lac has already been paid towards interim maintenance for the period from 09.4.2014 to 01.12.2015. It is not a case where nothing has been paid by the respondent. He informed that the suit is fixed at the final stage of rebuttal evidence and arguments.

After hearing learned counsel for the parties and appraising the paper book I find no merit in the present petition. It is sordid state of affairs that a grand-son is claiming interim maintenance from his own grand-father though he is stated to be a major. The defence of the defendant-respondent, in my view, cannot be struck off without adequate reasons. Mere striking off defence of the respondent would not be construed as success of claim of the plaintiffs.

Without commenting upon the merits of the case and taking into account the fact that the case is at the final stage of rebuttal evidence and arguments, I do not find any ground to interfere with the impugned order as the same being perfect and legal cannot be faulted with.

Dismissed. However, the petitioners are given liberty to claim arrears of interim maintenance, in accordance with law.

April 05, 2018
manoj

^(AMIT RAWAL)
JUDGE

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