

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

(225)

FAO-6811-2016 (O&M)

Date of Decision: August 01, 2018.

Deepak

.... Appellant

Versus

Neetu @ Nitin

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Manoj Makkar, Advocate, for the appellant.

Mr. Punit Malik, Advocate, for the respondent.

M.M.S. BEDI, J (ORAL)

This appeal has been preferred by the appellant-husband against order dated 03.10.2016 granted maintenance pendente lite at the rate of Rs.18,000/- per month to the respondent-wife as she is also maintaining a minor child born out of the wedlock.

It is an admitted fact that family of the appellant owns number of properties consisting of plots and agricultural land in villages Khandsa, Kankrola, Bhangrola and Patili Hazipur. It is also not disputed that good amount of compensation of acquisition of some of the properties, has been received by the family of the appellant. The lower Court, taking into consideration the circumstances, has awarded maintenance pendente lite at the rate of Rs.18,000/- per month besides litigation expenses of Rs.2200/-.

Counsel for the respondent has opposed the appeal contending that the amount awarded is reasonable amount and that the respondent-wife is entitled to be maintained as per the status of her husband.

During course of arguments, it transpires that a sum of Rs.7000/- per month has been awarded to the respondent-wife by Judicial Magistrate Ist Class, Gurgaon exercising the powers under the Protection of Women from Domestic Violence Act.

The scope of interference in the order of interim maintenance is very meager. Order passed under Section 24 of the Hindu Marriage Act is not appealable as per the provisions of the Hindu Marriage Act but on account of the provisions of Section 19 of the Family Courts Act, every order is appealable and that too before a Division Bench of the High Court.

We have considered the facts and circumstances of the case and we do not find any ground to interfere in the well reasoned order passed by the lower Court taking into consideration the circumstances that the respondent-wife is shouldering the responsibility alone for bringing up the minor child.

Only relief which can be granted to the appellant is that he can be made liable to pay sum of Rs.18,000/- per month after adjusting a sum of Rs.7000/- which has been ordered by Judicial Magistrate Ist Class, Gurgaon exercising the powers under the Protection of Women from Domestic Violence Act.

The appeal is dismissed with an observation that in case sum of Rs.7000/- is paid in proceedings under the Protection of Women from Domestic Violence Act, the said amount will be adjustable against the monthly amount of Rs.18,000/- in proceedings under Section 24 of the Hindu Marriage Act.

Parties are directed to appear before the lower Court on 07.08.2018.

It is ordered that in case the entire arrears of the maintenance amount as awarded by the lower Court and calculated as per the clarification made by this Court hereinbefore, are not paid within a period of one month after the next date of hearing fixed before the lower Court, it will be open to the lower Court to strike of the defence of the appellant-husband in proceedings under Section 13 of the Hindu Marriage Act initiated by the respondent-wife in the lower Court.

(M.M.S. BEDI)
JUDGE

August 01, 2018
harsha

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No