

FAO-M-222-2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-M-222-2018.

Decided on: July 24, 2018.

Surinder Kumar

.. Appellant

VERSUS

Saroj Rani

.. Respondent

*** * ***

**CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI
HON'BLE MR.ANUPINDER SINGH GREWAL**

*** * ***

**PRESENT Mr.Gautam Bhardwaj, Advocate,
for the appellant.**

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

This is husband's appeal against the order dated 30.4.2018, allowing the application filed by the respondent-wife and granting her maintenance pendente lite @ Rs.4,000/- per month besides litigation expenses to the tune of Rs.6,000/-.

A perusal of the order indicates that the plea of the appellant-husband that the respondent-wife earns a sum of Rs.7,000/- to 8,000/-per month by doing the embroidery and stitching work has been considered and rejected by the lower Court. The lower Court has passed the impugned order considering that the appellant-husband being an able bodied person is legally and morally bound to pay maintenance.

Counsel for the appellant-husband has vehemently contended that as a matter of fact, the appellant-husband had earlier filed an

application under Section 9 of the Hindu Marriage Act, against the respondent-wife as she had left his company without any reasonable cause. Later on, the parties had agreed to get the marriage dissolved by filing a petition under Section 13-B of the Hindu Marriage Act. A sum of Rs.1.5 lac was allegedly settled as the amount of permanent alimony out of which a sum of Rs.50,000/- had been received by the respondent-wife.

We have considered the contentions of the learned counsel for the appellant-husband who has been deputed by the State Legal Services Authority. We find that the pleas taken up in the appeal have not been raised before the lower Court. Even if the arguments are considered still the respondent-wife cannot be deprived of the maintenance pendente lite and litigation expenses as there does not appear to be any valid document produced on record of the lower Court file or before this Court to establish the earnings of the respondent-wife.

Counsel for the appellant-husband, at this stage, has submitted that the matter can be referred to the Mediation and Conciliation Centre of Punjab and Haryana High Court.

We have also considered the above contention. The Courts are never averse to the settlement of the matrimonial disputes by amicable means in the light of spirit of provisions of Section 23 (2) of the Hindu Marriage Act but the said exercise can also be undertaken at the ADR Centre, Sirsa where the matrimonial dispute is pending. In the present case, it is the respondent-wife who has initiated proceedings for divorce on the ground of cruelty. If the parties are genuinely not interested to stay

together as is apparent from the contention of the learned counsel for the appellant-husband that earlier a petition under Section 13-B of the Hindu Marriage Act, has been filed, this circumstance can be considered by the Court below or the ADR Centre while making an attempt to settle the dispute between the parties by joining or parting company subject to settlement of the terms.

Find no ground to interfere in the impugned order passed by the lower Court granting maintenance pendente lite, the present appeal is dismissed expecting that the Court below shall make an endeavour to expeditiously dispose of the matter by taking effective steps for amicable settlement on terms agreed to between the parties. If any amount has been received by the respondent-wife in proceedings under Section 13-B of the Hindu Marriage Act, the said amount can always be adjusted against the amount of permanent alimony or otherwise.

(M.M.S. BEDI)
JUDGE

July 24, 2018.
raj arora

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No