

USHA V/S PARDEEP KUMAR

Present: Mr. Sudhir Aggarwal, Advocate, for the appellant.

Mr. Sanjay Vij, Advocate, for the respondent.

Reply to application under Section 24 of the Hindu Marriage Act filed in the Court, is taken on record.

A decree of divorce has been granted to the respondent-husband by District Judge, Family Court, Gurgaon. Aggrieved against the said judgment and decree, the appellant-wife has preferred this appeal along with an application under Section 24 of the Hindu Marriage Act for grant of maintenance pendente lite @ Rs.20,000/- per month and litigation expenses of Rs.33,000/- on the ground that she has got no source of income to maintain herself and her school going daughter and is dependent upon her brother, who is also a poor person. The respondent-husband is running a gift shop and a school with his sister and brother-in-law and earning Rs.1 lac per month.

The respondent-husband has filed reply denying that he is employed but it is pleaded that the appellant-wife is running a Kiryana shop exclusively and earning sufficient amount to maintain herself and her daughter. The respondent-husband claims himself to be unemployed and living at the mercy of his sister.

On asking of the Court, counsel for the respondent-husband clarified that sister and brother-in-law of the respondent are running a small school and the appellant-wife is assisting his brother-in-law.

We have heard counsel for both the parties.

The respondent-husband is an able bodied person. He has not disclosed his income but admitted only to the extent that he is living at the

mercy of his sister which has been clarified during course of arguments by explaining that sister of the respondent is running a small school. No document has been placed on record indicating that the appellant-wife is earning from any shop as no specifications of the place of running of the shop have been mentioned.

It has been informed that a sum of Rs.3000/- per month was awarded by the lower Court in proceedings under Section 24 of the Hindu Marriage Act as maintenance pendente lite for the appellant-wife and her daughter who is at present stated to be about 16 years.

The respondent-husband being an able bodied person and working, a bit of estimation would be permitted under law. His income is presumed to be not less than minimum wages prescribed by the State Government. It is held that his income is not less than Rs.15,000/- per month, as such, taking into consideration his statutory obligation to maintain his wife and daughter, a bare minimum amount of Rs.5,000/- per month is awarded to the appellant-wife with effect from the date of application i.e. October, 2015. Litigation expenses are assessed as Rs.33,000/-.

Application under Section 24 of the Hindu Marriage Act is allowed in aforesaid manner.

For payment of entire arrears of maintenance calculated till 31.07.2018 and the litigation expenses, adjourned to 10.07.2018.

(M.M.S. BEDI)
JUDGE

February 15, 2018.
harsha

(GURVINDER SINGH GILL)
JUDGE