

Radhey Sham Vs Vandana

**PRESENT Mr.C.L.Sharma, Advocate,
for the appellant-husband.**

**Mr.L.S.Sidhu, Advocate,
for the respondent/wife.**

Misc. applications CM-2214-2215-CII-2018 are allowed.

Respondent-wife is permitted to place on record documents Annexure R1 to R8.

The applicant-respondent/wife has filed an application under Section 24 of the Hindu Marriage Act for the grant of maintenance pendente lite @ Rs.1,50,000/- per month and Rs.55,000/- towards litigation expenses claiming that she is a housewife and has to maintain a minor daughter born out of the wedlock and that she has got no source of income whereas the appellant/husband is having rental income of Rs.4 lac per month from 30 killas of land in village Barwala, District Panchkula and four houses in village Burail, Sector 45, Chandigarh. It is further averred in the application that the appellant/husband is also having agricultural land situated in village Maloya, Chandigarh, from where he is receiving rental income to the tune of more than Rs.2 lac per month. It is also averred that the appellant/husband is also managing a milk dairy from which he is earning Rs.1 lac per month. The application is supported by affidavit of the applicant-respondent/wife.

In the reply filed to the application under Section 24 of the Hindu Marriage Act, the appellant/husband has averred that vide order

CMM-87-2016 and FAO-M-242-2015

dated 23.1.2013, passed in proceedings under the Protection of Women from Domestic Violence Act, the applicant-respondent/wife has been awarded a sum of Rs.6,000/- per month which includes Rs.2,000/- per month for herself, Rs.2,000/- per month for the minor child and Rs.2,000/- per month on account of house rent. It is claimed that the said amount is being paid regularly.

It has been contended by the counsel for the appellant/husband that the applicant-respondent/wife has admitted in her cross-examination in proceedings under the Protection of Women from Domestic Violence Act, that the appellant/husband does not own any movable or immovable properties and that she is having Master of Computer Application (MCA) degree to her credit. Appellant/husband claims that he is working as a driver, getting a sum of Rs.9,000/- per month and is paying a sum of Rs.6,000/- per month out of the said income. So far as the properties mentioned in the application are concerned, documents Annexures R1 to R8 (Jamabandis) i.e. the revenue record which has been placed on record indicate that immovable property is jointly owned by Ishwar Singh and Sukhpal Singh, father and uncle of the appellant/husband.

We have taken into consideration all the above said circumstances and we are of the opinion that the appellant/husband has admitted his income to the extent of Rs.9,000/- per month but he has not specified the place of his employment and has also not mentioned whether he is driving his own vehicle or the vehicle owned by his employer. The admission that his father is owner of landed property is indicative of financial status of the appellant/husband and his family members, as such

CMM-87-2016 and FAO-M-242-2015

the respondent/wife is also entitled to maintenance commensurate with the status of the appellant/husband. Though the entire income from the landed property mentioned in jamabandis Annexures R1 to R8 cannot be presumed to be exclusively vesting in the appellant/husband but it can certainly be presumed that appellant/husband is enjoying the financial status and the income of his father regarding which details have been concealed from the Court.

In view of above stated peculiar facts and circumstances of this case, application under Section 24 of the Hindu Marriage Act, is allowed. A sum of Rs.12,000/- per month is ordered to be paid by the appellant-husband to the respondent/wife as maintenance pendente lite w.e.f. May 2016 as she is also maintaining minor child born out of the wedlock and has got no source of income. Litigation expenses to the tune of Rs.50,000/- are also awarded to the wife.

Any amount paid towards maintenance under the orders of the Court in proceedings under the Protection of Women from Domestic Violence Act, will be adjustable from the amount ordered by this Court.

For payment of entire arrears of maintenance pendente lite as well as litigation expenses, after adjustment as stated above, adjourned to 9.8.2018.

(M.M.S. BEDI)
JUDGE

April 19, 2018.
raj arora

(GURVINDER SINGH GILL)
JUDGE