

**KUSUM
V/S
JITENDER**

Present: Mr. Yesh Pal Malik, Advocate, for the appellant.

None for the respondent.

Respondent-husband had been granted decree of divorce vide impugned judgment and decree dated 06.01.2016. Aggrieved by the said order, the appellant-wife has preferred this appeal. During pendency of the appeal, the appellant-wife has filed an application under Section 24 of the Hindu Marriage Act seeking maintenance pendente lite and litigation expenses on the ground that the respondent-husband is an agriculturist and also running a Milk Dairy in his village. He is earning an amount of Rs.15,000/- per month whereas she has got no source of income.

The said application was filed in February, 2016. Despite repeated opportunities, the respondent has not filed reply despite last opportunity granted on 17.11.2017. Today none appeared on behalf of the respondent-husband.

The appellant-wife has not placed on record any document indicating the income of the respondent-husband but fact remains that the respondent-husband is an able bodied person and capable of earning. The affidavit filed by the appellant-wife do not contain the details of the property, if any, owned by the respondent-husband.

Be that as it may, we are of the opinion that the respondent-husband being an able bodied person, capable of earning, can be presumed to be earning minimum wages by doing labour work. He has also not come forward to deny the averments in the application.

We are of the opinion that if it is presumed that the respondent-husband is earning as a labourer, he must be earning not lesser than Rs.500 per day, thus the income of the respondent-husband would not less than Rs.15,000/- per month.

The application under Section 24 of the Hindu Marriage Act is allowed. A sum of Rs.5000/- per month is awarded to the appellant-wife as maintenance pendente lite. The said amount will be payable with effect from the date of application i.e. February, 2016. Litigation expenses are assessed as Rs.30,000/-. In case, any amount has been paid by the respondent-husband in any other proceedings for maintenance, the said amount will be adjustable against the amount awarded by this Court.

For payment of entire arrears of maintenance pendente lite and litigation expenses, adjourned to 21.05.2018.

**(M.M.S. BEDI)
JUDGE**

March 15, 2018.
harsha

**(GURVINDER SINGH GILL)
JUDGE**