

228. CMM-187-2015 IN
FAO-7829-2015

SIMRAN @ SAROJ VS BHOOP SINGH

Present: Mr. Sandeep Kumar Goyat, Advocate,
for the appellant.

Mr. Raman Chawla, Advocate,
for the respondent.

Reply to the application under Section 24 of the Hindu Marriage Act filed. Copy given.

The application under Section 24 of the Hindu Marriage Act has been filed by the appellant-wife claiming maintenance pendente lite @ ₹20,000/- per month along with litigation expenses of ₹25,000/-, claiming she is unable to earn anything, whereas the respondent-husband is an able bodied person doing the business of Contractor and having agricultural land of about 6 acres in Village Gurera, Tehsil Siwani, District Bhiwani. He has also a plot and other movable property in Teshil Siwani and other places.

Reply has been filed by the respondent-husband claiming that the appellant-wife is capable of earning as she is well versed in sewing and earning sufficiently. He claims that he had been working as a Chowkidar, earning a sum of ₹3500/- per month but on account of his disc problem, he has left the job in July, 2012. He claims to be dependent upon the income of the father who is an old man of 85 years. It is also pleaded that he is already paying a sum of ₹5000/- per month to the appellant-wife under the orders passed in proceedings under Section 125 Cr.P.C. In support of the averments in the reply, certain documents have been placed on record to substantiate the plea of his physical ailment. He has also made an attempt to establish that on account of expenses incurred by him on medical treatment, he is incapable of paying anything to the appellant-wife.

We have considered the facts and circumstances of the case. Respondent-husband is an able bodied person. On the basis of his income and capacity to earn, he has been paying a sum of ₹5000/- per month to the appellant-wife in proceedings under Section 125 Cr.P.C. Since both the parties have not made available any material to enable this Court to arrive at definite figure of any amount being earned by the respondent-husband, a bit of estimation in said circumstances is permissible. Respondent-husband is an

able bodied person, capable of earning, cannot evade his liability to pay maintenance pendente lite to the wife. The medical record of a private hospital does not indicate that the respondent-husband has been advised any bed rest preventing him to continue with his daily activities. Besides this, it is not the case of the husband that he is bed-ridden and not working. In peculiar circumstances of this case, striking the balance between the requirement of the statute and the capability of the respondent and the capacity to earn of the appellant-wife, we deem it appropriate to grant maintenance pendente lite to the wife at the rate of ₹7000/- per month. This amount will be payable to the appellant-wife from the date of application i.e. November 2015. It is made clear that any amount paid in proceedings under Section 125 Cr.P.C. will be deductible from the amount assessed by this Court. The litigation expenses are assessed as ₹25,000/-. It is made clear that a sum of ₹20,000/- already paid towards interim litigation expenses will be deductible from the amount assessed by this Court.

The application under Section 24 of Hindu Marriage Act is allowed in the above terms.

For payment of entire arrears of maintenance pendente lite and litigation expenses, adjourned to 28.09.2018.

(M.M.S. BEDI)
JUDGE

(HARI PAL VERMA)
JUDGE

25.05.2018
sanjeev