

236 **CM-20157-CII-2017 in CMM-132-2014 with
FAO-M-313-2014**

**RANJIT KAUR
V/S
GURNAM SINGH**

Present: Mr. Gangandeep Singh, Advocate, for
 Mr. A.S. Manaise, Advocate, for the applicant-appellant.

None for the respondent.

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None has put in appearance on behalf of the respondent-husband despite counsel having been informed by the Registry vide letter No.12165 dated 07.11.2017.

The miscellaneous application is allowed and the application under Section 24 of the Hindu Marriage Act is taken up for hearing.

CMM-132-2014

Petition of the respondent-husband under Section 13 of the Hindu Marriage Act was allowed by the Additional District Judge, Gurdaspur and the marriage between the parties was dissolved by a decree of divorce. Aggrieved by the said decree, the appellant-wife has preferred this appeal.

Application under Section 24 of the Hindu Marriage Act was filed on 16.08.2014 seeking maintenance pendente lite @ Rs.10,000/- per month alongwith litigation expenses of Rs.15,000/- claiming that the respondent-husband is an able bodied person and is running a workshop of tractor repair at Gurdaspur and earning a sum of Rs.30,000/- per month besides being a co-sharer with his brothers in more than 12 acres of agricultural land in village Nardan, Tehsil and District Gurdaspur whereas the appellant-wife had got no source of income. It has also been disclosed

in the application that the appellant-wife has been granted maintenance of Rs.2000/- per month in proceedings under Section 125 Cr.P.C by Judicial Magistrate Ist Class, Gurdaspur.

Mr. Deepak Arora, Advocate had put in appearance on behalf of the respondent-husband on 22.01.2015 and 07.05.2015. The appeal was admitted on 05.04.2017. The matter was fixed before the National Lok Adalat on 08.07.2017 but there was no representation on behalf of the respondent. On 25.10.2017, the respondent-husband was required to file reply to application under Section 24 of the Hindu Marriage Act with the Registry 7 days prior to the date of hearing.

Perusal of the file indicates that neither reply has been filed nor anyone has put in appearance on behalf of the respondent-husband, despite service.

In view of said circumstances, the respondent is proceeded against ex-parte for the purpose of application under Section 24 of the Hindu Marriage Act.

On asking of the Court, counsel for the appellant submits that before the lower Court, a sum of Rs.1500/- per month had been awarded as maintenance pendente lite in application under Section 24 of the Hindu Marriage Act in the year 2013.

We have considered the un rebutted averments supported by an affidavit in application under Section 24 of the Hindu Marriage Act and are of the opinion that the respondent-husband, being an able bodied person, capable of earning and running a tractor repair shop, can be presumed to be earning sufficient amount for his survival and that of his wife. Presuming

that he is earning a minimum sum of Rs.10,000/- per month, a sum of

Rs.3000/- per month is considered as reasonable amount as maintenance pendente lite to be paid to the appellant-wife during pendency of the appeal.

It is made clear that a sum of Rs.2000/- per month which is ordered to be paid in proceedings under Section 125 Cr.P.C., would be adjustable against the amount awarded by this Court. This sum of Rs.3000/- will be payable with effect from the date of application i.e. August, 2014. In case, any amount has been paid during that period towards maintenance in proceedings under Section 125 Cr.P.C, the same will be adjustable. A sum of Rs.15,000/- is awarded as litigation expenses.

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

For payment of entire arrears of maintenance and the balance of litigation expenses if any, adjourned to 25.03.2018.

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

January 11, 2018.
harsha

**(GURVINDER SINGH GILL)
JUDGE**