

HARPAL SINGH VS PARAMJIT KAUR

**PRESENT Mr.D.S.Kahlon, Advocate,
for the appellant-husband.**

**Mr.Jasraj Singh, Advocate,
for the applicant-respondent/wife.**

Misc. application CM-2793-2018, is allowed.

Reply is taken on record.

Applicant-respondent/wife in her application under Section 24 of the Hindu Marriage Act, claims maintenance pendente lite @ Rs.10,000/- per month besides litigation expenses stating that appellant-husband is earning a sum of Rs.50,000/- per month from all sources being owner of 5 acres of land and having two houses in the village whereas she is unemployed having no source of income. She is also maintaining 16 years old daughter born out of the wedlock.

The appellant-husband in his reply has denied that the applicant-respondent/wife is unemployed or unable to maintain herself. He has denied his income to be Rs.50,000/- per month but has pleaded that son of the appellant Gurpreet Singh is residing with respondent who at present is well settled in USA and earning more than a sum of Rs.3 lac per month. He claims that he is an old man aged 55 years suffering from various ailments having no source of income and is not being maintained by his aforesaid son Gurpreet Singh.

During the course of arguments, it transpires that a sum of Rs.5,000/- per month has been awarded to the applicant-respondent/wife in proceedings under Section 12 of the Protection of Women from Domestic

Violence Act and the said amount is not being paid. The appellant is admittedly an able bodied person having a statutory duty to maintain his wife and children. A daughter aged about 16 years is also being maintained by the applicant-respondent/wife. The son of the parties, as per the averments in the reply of the husband, is residing in USA which fact is indicative of the standard of living of the parties. The appellant-husband being an able bodied person will be presumed to be earning at least minimum of the wages which have been prescribed by the Government and a bit of estimation in said circumstances would be permissible. We presume that the appellant-husband would not be earning less than Rs.20,000/- per month even if he is working as a labourer. The applicant-respondent/wife in said circumstances can be granted maintenance pendente lite @ Rs.6,000/- per month.

Application under Section 24 of the Hindu Marriage Act is allowed and the applicant-respondent/wife is awarded a sum of Rs.6,000/- per month as maintenance pendente lite with effect from the date of application i.e. November 2017. Applicant-respondent/wife is also awarded a sum of Rs.20,000/- as litigation expenses. It is admitted by the counsel for the applicant-respondent/wife that the said amount of litigation expenses of Rs.20,000/- has already been paid. In case the amount of Rs.5,000/- per month has been paid in execution of the order passed by the Court exercising jurisdiction under the Protection of Women from Domestic Violence Act, the said amount will be deductible from the amount of maintenance pendente lite awarded today by this Court.

For payment of entire arrears of maintenance pendente
lite as calculated till 31.7.2018, after deductions as stated above, to come up
on 10.7.2018.

(M.M.S. BEDI)
JUDGE

February 9, 2018.
raj arora

(GURVINDER SINGH GILL)
JUDGE