

CMM-34-2017 in FAO-M-348-2013

Raghubir Singh V/s Shashi Bala

Present: Mr. H.P.S. Ishar, Advocate,
for the applicant/respondent.

Mr. H.S. Baath, Advocate,
for non-applicant/appellant.

Decree of divorce has been granted to the respondent-wife vide impugned judgment and decree dated 15.10.2013. Aggrieved by the said decree, the husband has preferred this appeal.

During pendency of the appeal, the respondent-wife has filed an application under Section 24 of the Hindu Marriage Act, 1955 seeking interim maintenance @ ₹ 25,000/- per month and litigation expenses of ₹ 33,000/-. In the application the respondent-wife claims that she had been granted maintenance for herself and for the minor daughter to the tune of ₹ 2,000/- per month in proceedings under Section 125 Cr.P.C.

The instant application was filed on 4.3.2017. A period of almost one year has passed but no reply has been filed. As such we are compelled to dispose of the application on the basis of the arguments raised by counsel for both the parties.

On asking of the Court, it has been informed that the non-applicant/appellant-husband is working as a plumber and his monthly income is only ₹ 10,000/-.

We have considered the facts and circumstances of the case and are of the opinion that the appellant-husband is admittedly a skilled person. Even if, it is presumed that he is a skilled labourer, his income can be presumed to be any amount more than the minimum wages fixed by the State authorities. Entering into the gist of estimation, we hold that the

income of the appellant-husband being a skilled person is not less than ₹ 20,000/- per month.

It is not the case of the non-applicant/appellant-husband that the applicant-respondent-wife is earning any amount. It is an admitted fact that she is burdened with the responsibility of bringing up the minor child borne out of their wedlock. A sum of ₹ 5,000/- is assessed as maintenance *pendente lite* payable to the applicant-respondent-wife taking into consideration her additional liability of bringing up the child. The amount will be payable w.e.f. March 2017. It is made clear that any amount paid towards the maintenance *pendente lite* under Section 125 Cr.P.C. would be adjustable from the amount awarded under Section 24 of the Hindu Marriage Act, 1984. The litigation expenses are assessed as ₹ 25,000/-. ₹ 15,000/- has already been paid.

The application under Section 24 of the Hindu Marriage Act, 1955 is allowed in above terms.

For payment of balance of litigation expenses of ₹ 10,000/- and arrears of maintenance *pendente lite* @ ₹ 5,000/- per month from the date of application i.e. March 2017, to come up on 5.4.2018.

Entire arrears is calculated till 30.4.2018 will be paid on next date of hearing along with litigation expenses of ₹ 25,000/- after adjusting sum of ₹ 15,000/- already paid.

(M.M.S. Bedi)
Judge

5.2.2018
pankaj

(Gurvinder Singh Gill)
Judge