

Kulwant Rai Vs Sudesh Kumari

**PRESENT Mr.A.S.Manaise, Advocate,
for the non-applicant/appellant-husband.**

**Mr.Deepak Grover, Advocate, for
Mr.Inderjit Sharma, Advocate,
for the applicant/respondent-wife.**

Pursuant to order dated 7.5.2018, the parties were required to appear before this Court to explore the possibility of some amicable settlement as counsel for the respondent-wife had informed this Court that there are chances of some amicable settlement but the respondent-wife has not come present.

The appellant-husband is present in the Court. Counsel for the appellant, on the instructions from the appellant, informs that he has bought a house in Dina Nagar which has been transferred in the name of respondent-wife and he is ready to give said house to the respondent along with some permanent alimony.

Application under Section 24 of the Hindu Marriage Act for the grant of maintenance pendente lite filed by the respondent-wife is pending adjudication since May 2017. In the interest of justice, we deem it appropriate to take up the said application and dispose of the same.

The respondent-wife has claimed that she has got no source of income whereas the appellant-husband is an employee of the Punjab Police getting a salary of Rs.75,000/- per month but he has failed to maintain the respondent-wife. Respondent-wife claims maintenance pendente lite @ Rs.30,000/- per month besides litigation expenses of Rs.25,000/-.

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In the proceedings under Section 24 of the Hindu Marriage Act, before the lower Court, the appellant-husband had been directed to pay a sum of Rs.2500/- per month w.e.f. May 2017 and it is claimed that the amount of maintenance at said rate is being paid till date.

So far as income of the appellant-husband as alleged in the application being Rs.75,000/- per month is concerned, the same has been denied but it is admitted that the appellant-husband is serving as Head Constable in the Punjab Police. It is claimed that the appellant-husband is to look after his father and mother, who are aged 75 and 72 years respectively.

We have taken into consideration the averments made in the application as well as in the reply and are of the opinion that the appellant-husband is working as Head Constable in the Punjab Police and his income being Rs.75,000/- per month has not been specifically denied. A judicial notice is taken of the pay scales of a Head Constable in the State of Punjab. No material has been placed on record indicating any income being derived by respondent-wife Sudesh Rani. Even if, it is presumed that appellant-husband has to look after his old aged parents, still he cannot be absolved of his statutory obligations towards his wife in an application under Section 24 of the Hindu Marriage Act.

So far as a sum of Rs.2500/- per month which is being allegedly paid is concerned, any amount paid after May 2017 can be adjusted towards the maintenance determined by this Court. Taking into consideration the income of the appellant-husband, we are of the opinion that minimum a sum of Rs.20,000/- per month should be awarded to the respondent-wife towards maintenance pendente lite but since she is in

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occupation of the house purchased by the appellant-husband, it is observed that ends of justice would be adequately met in case the appellant-husband is compensated for the said possession of his house by the respondent-wife and as such, the amount can be reduced from Rs.20,000/- per month to Rs.15,000/- per month.

The application under Section 24 of the Hindu Marriage Act is allowed and the respondent-wife is awarded a sum of Rs.15,000/- per month as maintenance pendente lite which will be payable by the appellant-husband from the date of application i.e. May 2017. It is made clear that any amount @ Rs.2500/- per month paid after May 2017, will be deductible from the sum of Rs.15,000/- per month awarded by this Court. A sum of Rs.25,000/- is awarded towards litigation expenses. Rs.20,000/- earlier paid towards interim litigation expenses would be adjustable against the amount awarded by this Court.

For payment of entire arrears of maintenance pendente lite as calculated till 30.11.2018 as well as balance amount of litigation expenses, to come up on 16.11.2018.

The offer of appellant-husband made today in the Court for amicable settlement will be taken up after clearance of the arrears of maintenance on next date of hearing.

(M.M.S. BEDI)
JUDGE

September 27, 2018.
raj arora

(ANUPINDER SINGH GREWAL)
JUDGE