

Surinder Singh Vs Smt.Sudesh

**PRESENT Mr.Raj Kapoor Malik, Advocate,
for the appellant-husband.**

**Mr.Arvind Bansal, Advocate,
for the respondent/wife.**

CM-3191-CII-2018 is allowed.

Reply to the application under Section 24 of the Hindu Marriage Act, in the shape of affidavit of the appellant, is permitted to be taken on record.

The appellant-husband had filed a petition for divorce before the lower Court but his petition has been dismissed by the Additional District Judge, Kaithal, vide impugned judgment and decree dated 1.2.2017. Aggrieved by the said judgment, the appellant-husband has preferred the present appeal.

During pendency of the appeal, the respondent/wife has filed an application under Section 24 of the Hindu Marriage Act, claiming maintenance pendente lite at the rate of Rs.15,000/- per month besides litigation expenses claiming that she is not working whereas the appellant-husband is earning a sum of Rs.40,000/- per month being an employee of Haryana Police. It has also been averred that he owns 2½ acres of agricultural land in Village Chandana, District Kaithal, from where his income is Rs.20,000/- per month.

The appellant-husband in his reply has denied any earnings from the agricultural land but he has admitted that he is working

as a Constable. Admittedly, a sum of Rs.7500/- per month was awarded to the respondent/wife in proceedings under Section 125 Cr.P.C. by the Judicial Magistrate First Class, Kaithal, as well as in the application under Section 24 of the Hindu Marriage Act before the lower Court.

A serious controversy has been raised by the counsel for the appellant-husband regarding the income from the agricultural land.

Be that as it may, the appellant-husband cannot be absolved of his statutory liability to pay maintenance pendente lite to the applicant-respondent/wife, especially when she is incapable of earning.

On asking of the Court, it has been informed by the counsel for the appellant-husband that he is living in a joint family with his family members.

In view of above circumstances, it can be presumed that the appellant-husband, being a member of joint family, is not required to spend separately for food and shelter and the respondent/wife is entitled to maintenance pendente lite commensurate with the economic status and earning capacity of the appellant-husband. A sum of Rs.15,000/- per month is considered to be sufficient enough to enable the respondent/wife to survive and live a dignified and respectable life.

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 shall be payable from the date of application i.e. October 2017. It is made clear that any amount being paid towards maintenance in proceedings under Section 125 Cr.P.C. or any other proceedings, will be deductible from the amount of Rs.15,000/- per month

awarded by this Court today. The amount if any paid will be deductible while calculating the amount due. Applicant-respondent/wife is also awarded a sum of Rs.50,000/- as litigation expenses. A sum of Rs.20,000/- already paid towards interim litigation will be deductible from the amount of Rs.50,000/- awarded today.

For payment of entire arrears of maintenance pendente lite as calculated upto 31.7.2018, after adjustments as stated above, as well as balance of litigation expenses, adjourned to 13.7.2018.

(M.M.S. BEDI)
JUDGE

February 16, 2018.
raj arora

(GURVINDER SINGH GILL)
JUDGE