**CMM-83-2017 and FAO-3935-2017**

**Balwinder Kaur VS Harjinder Singh**

**PRESENT** **Mr.Sarju Puri, Advocate, for the appellant-wife.**

**Mr.T.P.S.Tung, Advocate, for the respondent-husband.**

The respondent-husband has been granted a decree of divorce and has been directed to pay permanent alimony of Rs.50,00,000/- (Rupees Fifty Lacs Only) by the District Judge, Family Court, Shaheed Bhagat Singh Nagar vide judgment and decree dated 6.5.2017.

Aggrieved by the above said order, the appellant-wife has preferred this appeal.

The respondent-husband has also filed a separate appeal (FAO-4167 of 2017) challenging the quantum of permanent alimony.

During pendency of the appeal, application under Section 24 of the Hindu Marriage Act, has been filed by the appellant-wife for awarding asum of Rs.50,000/- per month as maintenance pendente lite claiming that the respondent-husband is running the business of motorcycle agency at Banga and Behram earning a sum of Rs.11 lac per annum. Besides this, it is claimed that the respondent-husband is also having income of Rs.7 lac per annum from agricultural land.

The application has been opposed by the respondent-husband, inter alia, on the ground that the minor son born out of the wedlock is studying in a school for whom the respondent-husband is spending a sum of Rs.15,000/- per month.

So far as the source of income of respondent-husband is concerned, he admits that he is running the business of Honda Activa Scooter Agency at S.B.S. Nagar, from which his total annual income is Rs.4,60,000/- as per the copy of income tax return for the Financial Year 2015-16, a copy of which has been produced as Annexure R1. Respondent-husband has denied the allegations of having second motorcycle agency at Behram. It is submitted that the said agency at Behram was being run by the appellant-wife when she was residing with the respondent-husband but it has been closed after the matrimonial litigation.

We have been informed that a sum of Rs.10,000/- had been awarded as maintenance pendente lite by the lower Court while deciding the application under Section 24 of the Hindu Marriage Act. The respondent-husband has strenuously relied upon his income on the basis of the income tax return Annexure R1 for the Financial Year 2015-16 and Assessment Year 2016-2017. This document has been got prepared during pendency of the matrimonial litigation between the parties. The document does not contain the computation chart regarding the gross income from all the sources. The factum of income from agricultural land has also not been specifically denied. A bit of estimation is permissible in proceedings under Section 24 of the Hindu Marriage Act. We are also of the considered opinion that the actual income of the respondent-husband has not intentionally been brought to the notice of this Court.

Be that as it may, we feel that if the respondent-husband claims to be spending a sum of Rs.15,000/- per month on minor child, a sum of Rs.20,000/- per month as maintenance pendente lite will be the bare minimum required for the appellant-wife for her survival especially when the economic status of the respondent-husband has been considered by the lower Court while granting Rs.50 lac as permanent alimony to the appellant-wife. Even if it is presumed that one agency of two wheelers at Behram has been closed, the details of the income from the second agency having been not intentionally brought to the notice of the Court in detail, the income which has been shown as per the income tax return comes to about Rs.40,000/- per month.

As observed above, an attempt has been made for concealing the actual income. The said income will certainly be not less than Rs.80,000/- to Rs.1,00,000/- lac per month. A sum of Rs.20,000/- in said circumstances is considered to be a bare minimum required for the appellant-wife to maintain herself commensurate with the financial status of the respondent-husband.

The application under Section 24 of the Hindu Marriage Act, is allowed. A sum of Rs.20,000/- is awarded to the appellant-wife as maintenance pendente lite which shall be payable from the date of application i.e. May 2017. Litigation expenses to the tune of Rs.50,000/- are also awarded to the appellant-wife. A sum of Rs.25,000/- already paid towards litigation expenses will be deductible from the amount awarded today.

It is made clear that any amount, if already paid, in proceedings under Section 125 Cr.P.C. or in any other proceedings, would be adjustable against the amount awarded by this Court towards maintenance pendente lite.

**CMM-83-2017 and FAO-3935-2017**

For payment of entire arrears of maintenance pendente lite calculated upto 31.8.2018 as well as balance amount of litigation expenses, to come up on 10.8.2018.

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

**April 26, 2018.** **(GURVINDER SINGH GILL)**
**raj arora** **JUDGE**