227 FAO-6134-2016 with CMM-201-2017 (O&M)

SHRUTI
V/S
PANKAJ KATARIA

Present: Mr. Namit Khurana, Advocate, for the appellant.

Mr. Navkiran Singh, Advocate, for the respondent.

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Aggrieved by the grant of decree of divorce to the respondent-husband on the grounds of cruelty and desertion, the appellant-wife has preferred this appeal before this Court.

During pendency of the appeal, the appellant-wife has filed an application under Section 24 of the Hindu Marriage Act for grant of maintenance pendente lite at the rate of Rs.50,000/- per month alleging that the respondent-husband is highly qualified person and is earning sum of Rs.20 lakh per annum by working as Quality Manager in Newgen Software Technologies Limited. As per the income tax return of the year 2010-11, income of the respondent-husband was reflected about Rs.6 lakh per annum.

The respondent-husband has contested the application on the ground that the appellant-wife is working as a Guest Teacher and earning a sum of Rs.24,000/- per month. The child born out of the wedlock is being maintained by the appellant-wife but a sum of Rs.10,000/- per month was being paid as maintenance pendente lite to the child born out of the wedlock.

We have considered the facts and circumstances of the case.

The respondent-husband has not produced any document to rebut the income tax return.

Photocopy of the income tax return placed on record indicates that gross income of the respondent-husband was Rs.5,32,991/- during the financial year 2009-2010.

No material is available on record to establish that the income of the respondent-husband has deteriorated.

Without going into deep inquiry regarding the actual income of the respondent-husband, it is sufficient to observe here that he is earning more than the appellant-wife and the appellant-wife is entitled to be maintenance commensurate with the status of the respondent-husband. The respondent-husband, in the present case, is certainly earning more than Rs.1.5 lakh per month.

Counsel for the respondent-husband has contested the income tax return contending that an opportunity be granted to the respondent-husband to establish his actual income and claims that his income is not more than Rs.45,000/- per month.

We have taken into consideration the totality of the circumstances and are of the opinion that if the contention of counsel for the respondent is admitted, the respondent-husband would not be earning less than sum of Rs.1 lakh, even if income has been decreased after 2010-2011.

In view of the fact that a sum of Rs.10,000/- has been ordered to be paid to the child, we do not take into consideration the expenses of the child but are of the opinion that for the additional responsibility shouldered by the wife, she would be entitled to the maintenance for her maintenance as well as the child commensurate with the income of the respondent-husband.

A sum of Rs.20,000/- per month is assessed as maintenance pendente lite to be paid with effect from the date of application i.e. December, 2017. A sum of Rs.10,000/-, if already paid for the said period, will be adjustable against the amount of Rs.20,000/-. Litigation expenses of Rs.50,000/- is held payable to the appellant-wife. A sum of Rs.20,000/-,earlier paid towards interim litigation expenses, will be deductible from the amount assessed.

Application under Section 24 of the Hindu Marriage Act is allowed in abovesaid manner.

For payment of entire arrears of maintenance calculated till 30.11.2018, adjourned to 20.11.2018.

(M.M.S. BEDI)
JUDGE

August 23, 2018 **(ANUPINDER SINGH GREWAL)**
harsha **JUDGE**