

RA-CR-6-CII of 2018 in
FAO-M-432 of 2015

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Gurdarshan Singh Gill Vs. Harpuja Gill @ Puja Sandh

Present: Mr. J.S. Bedi, Sr. Advocate with
Mr. Lovekirat Singh Chahal, Advocate
for the appellant

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The appellant- husband who seeks decree of divorce from the respondent-wife was directed to pay a sum of Rs.40000/- p.m. as maintenance pendente lite w.e.f. the date of the application under Section 24 of the Hindu Marriage Act, for short 'the Act', filed by the respondent wife i.e. w.e.f. July 18, 2016, vide order dated 25.10.2017 taking into consideration the relative income of both the parties. The controversy whether the wife was earning from the rented properties and the business of the husband, the said amount had been determined. The said order had been challenged by the appellant- husband in the Supreme Court by filing SLP No. 34259 of 2017 which was dismissed on December 15, 2017 as withdrawn. Still not satisfied, the appellant/ husband has filed the application under Section 151 for review of the order dated October 25, 2017 primarily on the ground that while filing the application under Section 24 of the Act, the respondent wife has very cleverly concealed the true and material facts from this Hon'ble Court and has thus played a fraud on the Court. In order to establish the said fact, reliance has been placed on the affidavit produced by the respondent which was attested on September 14,

2017 but was filed on November 27, 2017 before the Judicial Magistrate, Panchkula in proceedings under Section 125 Cr.P.C. The affidavit as well as the income tax returns reflect that the four properties vesting in respondent wife are on rent and she had been receiving rent from all the properties but this affidavit was filed before the Court of Magistrate after the order dated October 25, 2017 was passed. Copy of the affidavit has been relied upon. In the light of said circumstances, a request has been made for reviewing of the order dated October 25, 2017 awarding maintenance pendente lite amount of Rs.40000/- per month.

Mr. J.S.Bedi, learned senior counsel appearing in the review application has vehemently contended that in the affidavit of respondent produced before this Court in application under Section 24 of the Act, a clear stand has been taken by the respondent that two of her properties were vacant and she has not been receiving any rent from the same whereas the Income Tax Returns of 2015-2018, indicate that she had been receiving rent from all the properties w.e.f. the year 2015 onwards. Mr. Bedi has argued that instead of four properties she has got five properties in her name and all of which have been rented out as is apparent from the ITR Returns.

We have heard learned counsel for the applicant-appellant at length in context to the provisions of Order 47 Rule 1 CPC and are of the view that the plea taken up at this stage in the review application was specifically raised before the Supreme Court while filing SLP and the said petition was withdrawn for the reasons best known to the appellant-applicant. The Apex Court in the order had observed that the parties would

be at liberty to resort to mediation before the concerned Court. In view of said circumstances, it will be judicial impropriety for this Court to consider the circumstances for the purpose of reviewing the order passed under Section 24 of the Act. No ground is made out for reviewing the order dated October 25, 2017. The review application is dismissed.

Since the appellant feels a heavy burden of amount of interim maintenance, we deem it appropriate to direct that Registry would list the appeal for final disposal in the second week of May 2018.

(M.M.S. BEDI)
JUDGE

February 02, 2018
sanjay

(AUGUSTINE GEORGE MASIH)
JUDGE