

DINESH BANSAL
V/S
SONIA BANSAL

Present: Mr. Arun Bansal, Advocate, for the appellant.

Mr. P.S. Dhaliwal, Advocate, for the respondent.

Reply to application under Section 24 of the Hindu Marriage Act has been filed in the Court today. Copy given.

Aggrieved by the dismissal of his petition for divorce, the appellant-husband has preferred appeal before this Court.

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.30,000/- per month besides claiming litigation expenses of Rs.22,000/- alleging that the appellant-husband is having a readymade garments shop and is earning a sum of Rs.50,000/- per month besides having moveable and immoveable properties, residential house and commercial shop. His total income from all the resources is alleged to be Rs.80,000/- per month.

The application has been contested inter alia on the ground that the respondent-wife is already getting maintenance allowance of Rs.3800/- per month in proceedings under Section 125 Cr.P.C. It has been brought to the notice of the Court that the appellant-husband is maintaining two children born out of the wedlock after arranging the funds from here and there. He claims that he is a Salesman in a garments shop. The appellant-husband, present in the Court, informs that he is only earning a sum of Rs.9000/- per month. Unfortunately, the allegation of mental illness has

been levelled against the respondent-wife. One of the children born out of the wedlock, in custody of the appellant-husband, is suffering from epilepsy and requires constant medical care and attention.

We have considered the facts and circumstances of the case. In peculiar circumstances of the case, we are of the opinion that the appellant-husband cannot run away from his liability to maintain his wife during pendency of the matrimonial litigation. No doubt, he is burdened with the responsibility of looking after two minor children but at the same time, he cannot ignore the responsibility of maintaining his wife especially when she has got no source of income.

The respondent-wife claims that the appellant-husband is earning a sum of Rs.80,000/- per month whereas the appellant-husband has come forward with the fact that his income is only Rs.9000/- per month as a Salesman on the garments shop.

In view of the large difference between the claim of both the parties regarding the income of appellant-husband, we are of the opinion that a bit of estimation would be required for the purpose of determining the amount of maintenance pendente lite and litigation expenses to be paid by the respondent-wife.

The appellant-husband is an able bodied person having long experience of running garments shop. As per the respondent-wife, he is running his own shop by working in the shop of his father whereas he claims to be just an employee earning only Rs.9000/- per month. Considering him to be equivalent to a skilled labourer, monthly income of the appellant-husband is assessed to be not less than Rs.20,000/-. In view of the fact that he is maintaining two children born out of the wedlock, a sum

of Rs.5000/- will be sufficient enough for the respondent-wife towards the maintenance pendente lite. The said amount will be payable with effect from the date of application i.e. April, 2018. It is made clear that a sum of Rs.3800/- per month would be required to be adjusted against the amount of Rs.5000/-, in case it is being paid pursuant to the order passed by the Magistrate in proceedings under Section 125 Cr.P.C. Litigation expenses are assessed as Rs.22,000/-. A sum of Rs.20,000/- earlier paid will be deductible from the amount of Rs.22,000/-.

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

For payment of entire arrears of maintenance pendente lite and balance of litigation expenses, adjourned to 17.10.2018.

(M.M.S. BEDI)
JUDGE

July 12, 2018
harsha

(ANUPINDER SINGH GREWAL)
JUDGE