241 **CMM-104-2018 and FAO-1739-2017**

RENU AGGARWAL

VS

SUNIL AGGARWAL

Present: Mr. Anurag Jain, Advocate for the appellant.

Mr. Jitender Dhanda, Advocate for the respondent.

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CMM-104-2018

This application is filed for grant of maintenance pendente lite and litigation expenses.

We have heard both the learned counsel for the parties and the parties, who are present in Court.

Counsel for the appellant has submitted that the respondent is a 'benami' partner in his father's firm M/s Stylefit, SCF-93, Rajguru Market, Hissar, engaged in the business of the sale of ready-made garments and is also a dealer of the clothes of the Monte Carlo brand. The appellant is living with her son, namely, Hari Aggarwal, aged about 9 ½ years, studying in K.L. Arya DAV Public School, Hissar.

In the petition filed under Section 13 of the Hindu Marriage Act ('Act - for short), the appellant-wife had filed an application under Section 24 of the Act in which she was awarded ₹5000/- as maintenance pendente lite and ₹5500/- as litigation expenses by the trial Court. The appellant and her son Hari Aggarwal had also filed an application under Section 125 Cr.P.C. in the Court of Judicial Magistrate Ist Class, Fatehabad in which her son Hari Aggarwal has been awarded an amount of maintenance of ₹5000/- per month. The appellant had also filed an application under Sections 12, 14, 17, 18, 19, 20 and 22 of the Protection of

Women from Domestic Violence Act, 2005 against her husband and other members of his family before the JMIC, Fatehabad in which again ₹5000/- as maintenance has been awarded to her son Hari Aggarwal only.

The respondent has filed reply to this application and submitted his latest income tax return in which his total income has been shown as ₹66,000/- per annum, derived by way of salary being paid to him by the firm M/s Stylefit whereas counsel for the appellant has referred to the statement of AW-1 Sarita Rani, Inspector, Income Tax Department, Ward No.4, Hissar, which was recorded in another proceedings pending between the parties of which this Court had taken judicial notice because in the said statement, the income tax returns of the respondent were produced for the year 2008-09 of an amount of ₹1,06,731/-; 2009-10 was ₹1,44,367/-; 2010-11 was ₹1,72,301/-; 2011-12 was ₹1,70,935/- and 2012-13 was ₹1,74,322/-. It is submitted by the appellant that the respondent has shown his less income in the latest income tax return to the tune of ₹66,000/- per annum in order to avoid the payment of maintenance.

Be that as it may, from the aforesaid facts and circumstances, we are of the considered opinion that the respondent is a man of means otherwise he would not have worked in the firm of his father on a salary which is less than the salary being paid to the servants because his father who is present in Court has specifically stated that he is paying ₹8000/- per month to his servant working in his shop whereas the per month income of the respondent would be around ₹5000/- per month.

Thus in view thereof, we are disposing of this application directing the respondent to pay a sum of ₹10,000/- per month towards maintenance pendente lite to wife and ₹10,000/- per month to his son from the date of the application; besides, ₹25,000/- as litigation expenses.

This application, however, disposed of with a rider that the amount of maintenance already granted by the Court below to the son of the respondent to the tune of ₹5000/- shall be adjusted.

The respondent shall deposit the entire arrears of maintenance pendente lite in the account of the appellant, which shall be provided by her to the respondent, on or before the next date of hearing.

Main Case.

To come up for arguments on 08.02.2019.

(RAKESH KUMAR JAIN)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

November 29, 2018
A.Kaundal