

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No. 113 of 2019

- Naresh Kumar S/o Shri Kamal Singh Pawar Aged About 34 Years R/o Qtr. No. 25/3, Radhika Nagar, Bhilai, Tahsil And District Durg Chhattisgarh

---- Appellant

Versus

- Smt. Meenakshi Pawar W/o Naresh Kumar Pawar Aged About 29 Years R/o Through Father Shri Santosh Kumar Devrat, R/o Qtr. No. 89 F, Risali, Sector Bhilai, Tahsil And District Durg Chhattisgarh

---- Respondent

For Appellant : Ms. Arti Chandra Dutta, Advocate
None for the respondent though served.

D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Rajani Dubey

Order On Board

17/06/2019

This appeal arises out of order dated 14/03/2019 passed by the Family Court whereby the Family Court has awarded Rs.5,000/- as maintenance and Rs.1,000/- as litigation expenses to respondent / wife.

2. The submission of learned counsel for the petitioner is that only on 18/01/2018, the application for maintenance was rejected by the Court on specific ground that as the respondent / wife was also earning, she was not entitled to any maintenance. It is submitted that the order passed by the learned Family Court now awarding monthly maintenance and litigation expenses is, therefore, perverse.

3. After going through the impugned order dated 14/03/2019 and earlier order dated 18/01/2018 passed by the Family Court, we find that earlier, application of the respondent / wife for grant of maintenance was rejected on specific ground that the respondent is under employment as Upper Division Teacher and is therefore, not entitled to any maintenance amount.

4. In the impugned order, learned Family Court has not referred to this aspect at all.

It appears that the appellant was not present before the Family Court. However, this fact was fully within the knowledge of the respondent but was not disclosed.

5. In view of above, in our opinion, the impugned order cannot be sustained in law and is, therefore, set aside to the extent it awards maintenance of Rs.5,000/- per month to the respondent / wife as per the provisions contained under Section 24 of the Hindu Marriage Act, 1955. As far as litigation expenses is concerned, that part of the order is not interfered with.

6. If the respondent, due to change in circumstances, is able to satisfy the Family Court that she is no longer in employment, it would be open for her to file application for grant of maintenance.

7. The appeal is accordingly partly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge