

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 237

CR-6918-2017

Date of decision : 17.09.2019

Daljit Singh

..... Petitioner

VERSUS

Rajni and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Jasraj Singh, Advocate, for the petitioner.

Mr. Deepak Malhotra, Advocate, for
Mr. R. P. Dhir, Advocate, for the respondents.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 18.09.2017, passed by the Additional District Judge, Hoshiarpur (for short, the Trial Court), through which the petitioner-husband has been directed to pay to the respondent No. 1-wife and the minor child of the parties-respondent No. 2 a monthly amount of ₹ 15,000/- as interim maintenance alongwith ₹ 10,000/- as one time litigation expenses.

Learned counsel for the petitioner submits that the Trial Court has wrongly assessed the petitioner's monthly income to be ₹ 50,000/- as in this regard there was no evidence before the Trial Court. Learned counsel for the petitioner relies upon the affidavit of the petitioner filed before this Court through which he has submitted that at one point of time the petitioner had gone to Greece where he was doing labour work and since 2014 he has permanently come back to India where he is working as a Plumber on daily wage basis.

Learned counsel for the respondents submits that the petitioner was settled in Europe and is now doing the business of immigration and property dealing. According to him, the petitioner was earning at least

₹ 60,000/- per month and therefore, grant of monthly interim maintenance @

₹ 15,000/- and ₹ 10,000/- as one time litigation expenses are reasonable.

A perusal of the impugned order shows that the petitioner's monthly earning has been assessed as ₹ 50,000/-. However, the same is not found to be on the basis of any evidence whatsoever. No discussion is also found in the impugned order as to how and why the Trial Court has arrived at the aforesaid figure.

In view of the above, after setting aside the impugned order only the issue with regard to determination of the interim maintenance payable by the petitioner-husband to respondent No. 1-wife the matter is remitted back to the Trial Court for a fresh reasoned decision. Such decision be taken expeditiously but not later than two months from the date of receipt of a copy of this order, of course, after giving adequate opportunities of hearing to both sides as also to lead any further evidence that either party may wish to lead.

In the meanwhile, the petitioner-husband shall continue to pay to the respondents monthly interim maintenance fixed by this Court through order dated 13.10.2017.

It is clarified that the Trial Court shall not be influenced by the interim maintenance fixed by this Court and shall decide the respondents' application on its merits as also on the basis of evidence, if any, to be led by either party.

The petition is disposed of in the above terms.

17.09.2019

shamsher

[DEEPAK SIBAL]
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No