

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**FAO-1496-2019 (O&M)
Date of Decision : 11.03.2019**

Mandeep Singh

... Appellant

Versus

Jasbir Kaur

... Respondent

**CORAM:HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Vaibhav Sehgal, Advocate for the appellant.

HARNARESH SINGH GILL, J.

Challenge in the present appeal, is to the order dated 22.01.2019 passed by Principal Judge (Family Court) Ludhiana, vide which application filed under Section 24 of Hindu Marriage Act, 1955 (hereinafter referred as 'the Act') by respondent-wife, namely, Jasbir Kaur for grant of maintenance *pendente lite* and litigation expenses, has been allowed.

Appellant-husband namely, Mandeep Singh, filed a petition under Section 13 of the Act for seeking decree of divorce from respondent-Jasbir Kaur. It was alleged that the marriage between them was solemnized on 28.11.2007 and out of the wedlock, a son, namely, Harjot Singh was born on 08.09.2008. It was further stated that it was a simple marriage and nothing was given/demanded except some customary articles. Immediately after marriage, the behaviour of respondent-wife became objectionable as she never showed any respect, affection or love towards the appellant and his family.

During the pendency of the petition under Section 13 of the Act, the respondent-wife preferred an application under Section 24 of the Act for grant of maintenance *pendente lite* and litigation expenses, on her behalf as well as on behalf of her minor son. It was averred in the application that respondent-wife had earlier filed a petition under Sections 18 and 20 of the Hindu Adoptions and Maintenance Act, 1956, as an indigent person which was allowed by the Additional Civil Judge (Senior Division) Payal on 07.05.2016 but despite that, no maintenance was ever paid by the husband, who owns both movable and immovable properties, including agricultural land measuring 35 bigas and 14 biswas.

The appellant-husband denied that the respondent-wife is not able to maintain herself and minor son alleging that she is independent and having sufficient earnings to maintain herself and minor son. It was further stated that the defence of the respondent-wife has been struck off and thus, she has got no right to claim maintenance.

The Principal Judge (Family Court), Ludhiana, taking into consideration the arguments of the rival parties, granted ₹10,000/- per month, as maintenance *pendente lite* from the date of application and also one time litigation expenses to the tune of ₹5,000/-, vide order dated 22.01.2019.

Aggrieved of the order dated 22.01.2019 passed by Principal Judge (Family Court), Ludhiana, the appellant-husband has preferred the present appeal.

We have heard the arguments raised by Mr. Vaibhav Sehgal, counsel for the appellant.

Learned counsel for the appellant-husband has argued that the

appellant-husband has no source of income. Rather respondent-wife is self dependent and has sufficient earnings to maintain herself and the minor son. Out of 35 bigas and 14 biswas of land, the appellant-husband is owner of only 1/9th share. It has been further argued that during the pendency of the petition under Section 13 of the Act, the defence of respondent-wife has been struck off. Therefore, she is not entitled for maintenance *pendente lite* as she has no right to cross-examine the appellant-husband.

To our mind, the appellant-husband is an able bodied person and is an agriculturist, cultivating his fertile land in District Ludhiana. Moreover, the appellant-husband is duty bound to maintain his wife and their minor son. The Family Court, Ludhiana has rightly drawn the calculations of granting ₹10,000/- per month as maintenance *pendente lite* from the date of the application to respondent-wife and the minor son along with one time litigation expenses of ₹5,000/-.

We do not find any infirmity in the order passed by Principal Judge (Family Court), Ludhiana dated 22.01.2019. Accordingly, present appeal stands dismissed.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

11.03.2019
pooja saini

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No