

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

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**CR No. 5570 of 2018
Date of Decision : 17.11.2022**

Jagdish**..... Petitioner****Versus****Suman and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present : Mr. Kulwant Singh Dhanora, Advocate, for the petitioner
Mr. Rajesh Gupta, Advocate, for respondents no.1 and 2
Respondent no.3 ex-parte

TRIBHUVAN DAHIYA, J.

1. This petition has been filed under Article 227 of the Constitution of India for quashing the order dated 11.4.2018 (Annexure P-4) passed by the Executing Court/Civil Judge (Senior Division), Hisar, whereby the amount of maintenance awarded by the Court under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act') has been ordered to be paid from the date of filing of the application, i.e., 16.7.2010 and not from the date of the order, i.e., 5.6.2015 (Annexure P-1).

2. The facts of the case as apparent from the record are, on an application for maintenance filed by the respondent minor daughter under Section 12 of the Act, an order of maintenance to pay her Rs.1500/-per month was passed by the Court on 5.6.2015 (Annexure P-1). On an application for execution of the order, an issue arose as to from when the amount of maintenance becomes payable since the order did not specify any date. The Court of Civil Judge (Senior Division), Hisar, accordingly adjourned the matter for arguments on the issue vide order dated 28.9.2017 (Annexure P-3). It was after hearing both the parties that the impugned order dated 11.4.2018 (Annexure P-4) was passed by the Civil Judge holding that the maintenance allowance of Rs.1500/-per month was payable to the respondent/decreed holder from the date of filing of the petition under Section 12 of the

Act, i.e., from 16.7.2010.

3. Learned counsel for the petitioner/judgment debtor has contended that the Executing Court has no power to go behind the decree and the order dated 5.6.2015 awarding maintenance of Rs.1500/-per month could not have been modified/reviewed by awarding maintenance from the date of filing of the petition. Learned counsel for the respondent, *per contra*, contends that the order is only clarificatory in nature and calls for no interference.

4. Perusal of the order dated 5.6.2015 awarding maintenance shows that it is not specified in the order as to from which date the amount of maintenance awarded is payable. Therefore, it has rightly been clarified by the Executing Court, after hearing both the parties on the issue, that the amount of maintenance is payable from the date of the application and not from the date of the order. The clarification is as per the law settled. A reference in this regard can be made to judgment of the Supreme Court passed in **Criminal Appeal No. 730 of 2020 *Rajnish v. Neha and another***, wherein general directions have been issued regarding the date from which maintenance awarded under different Acts including the Act of 2005 is to be made applicable. The direction is to the effect that the maintenance in all cases will be awarded from the date of filing of the application of maintenance.

5. In view of the above, there is no infirmity or illegality in the impugned order.

6. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

17.11.2022

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No