

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 211 of 2021 (O&M)

Date of Decision: 10.05.2022

Geeta Devi

... Petitioner(s)

Versus

Vinod Kumar

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.S.Manhas, Advocate
for the petitioner(s).

Mr. Dinesh Mahajan, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The dispute is between the husband and wife having strained relationship. The husband has filed a petition for dissolution of marriage by way of decree of divorce. During its pendency, on an application filed by the wife, she was held entitled to maintenance @ ₹8,000/- per month. On account of failure of the respondent to pay the amount of maintenance, the divorce petition was dismissed in default. Subsequently, on an application filed by the respondent-husband, the petition was restored to its original number with the observation that he would have to pay the amount of maintenance.

2. The grievance of the petitioner is noticed in the order dated 09.02.2021, which is extracted as under:-

“This matter is being taken up for hearing through video

conferencing due to outbreak of the pandemic, COVID-19.

It is submitted that though it is mentioned in order dated 21.01.2021 that petition under Section 13 of the Hindu Marriage Act filed by the respondent is restored subject to deposit of interim maintenance, the petition stands restored without the requisite deposit and is being listed for evidence of the respondent. The matter was listed on 04.02.2021 and is now stated to be listed for 23.02.2021. It is submitted that arrears of maintenance to the tune of Rs. 1,66,000/- have been assessed to be pending, as is reflected in order dated 12.01.2021, however, the same were not deposited, still learned trial Court is treating the petition to be restored. It is further submitted that respondent – husband had earlier filed petition under Section 13 of the Hindu Marriage Act, which was dismissed in default on 12.01.2016. Respondent – husband's application for restoration of the said petition was allowed subject to condition of payment of half of the amount of arrears of maintenance pendente lite due to the petitioner, with a rider that restoration order would automatically stand cancelled in case the amount is not deposited. The amount in question was never deposited by the respondent – husband and the first petition under Section 13 of the Hindu Marriage Act filed by the respondent – husband stood dismissed. Second petition filed by the respondent – husband was again dismissed for non-payment of maintenance allowance on 12.01.2021. Respondent – husband, it is submitted, is in fact trying to overreach the Court.

Notice of motion for 05.05.2021.

Proceedings before the learned trial Court to remain stayed till the next date of hearing”.

3. The learned counsel representing the petitioner contends that the trial Court should not proceed with the matter, unless the respondent pays all the arrears of maintenance. He submits that there is another order passed by the competent Court under Section 125 Cr.P.C. for grant of maintenance to the petitioner and her minor child.

4. On the other hand, the learned counsel representing the respondent submits that a substantial part of the maintenance has already been paid and the respondent is prepared to pay the remaining amount.

5. Keeping in view the aforesaid facts, the present revision petition is disposed of with the observation that the trial Court will ensure payment of all the arrears of maintenance to the petitioner-wife before proceeding further with the matter.

6. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

May 10, 2022
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No