

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-863 of 2022 (O&M)
Date of Order: 02.08.2023

Pawan Kumar Sharma

..Petitioner

Versus

Hutashni Sharma and others

..Respondents

CR-1108 of 2022 (O&M)

Hutashni Sharma and others

.Petitioners

Versus

Pawan Kumar Sharma

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Dr. Rau P.S.Girwar, Advocate
for the petitioner (in CR-863 of 2022)
for the respondent (in CR-1108 of 2022)

Mr. Joginder Sharma, Advocate
for the petitioners (in CR-1108 of 2022)
for the respondents (in CR-863 of 2022)

ANIL KSHETARPAL, J

1. The dispute with regard to assessment of the maintenance pendent lite has come up for adjudication.

2. Two cross revision petitions have been filed, one by the husband, whereas the second by the wife and two daughters. The Family Court has ordered the husband to pay maintenance pendente lite to the wife @ Rs.10,000/- per month, whereas Rs.12,000/- each to the two daughters.

3. The learned counsel representing the petitioner(husband) in CR No.863 of 2022 while referring to the salary slip of December, 2021 (Annexure P-7), submits that the carry home salary of the petitioner-husband

is Rs.55,016/-, whereas the court has ordered payment of maintenance of Rs.34,000/- in total to the wife and the two daughters. He further submits that the respondents (petitioner's wife and daughters) continue to residing in the same house along with the petitioner-husband. While referring to the account statement of one of the daughters, he submits that she has sufficient funds in her bank account.

4. On the other hand, the learned counsel representing the respondents (petitioners in CR No.1108 of 2022) submits that the Family Court has erred in granting maintenance from the date of order and not from the date of filing an application. He submits that the delay in disposal of the application should not deprive the wife and the daughters of the amount of maintenance.

5. This court has considered the submissions of the learned counsels representing the parties.

6. On careful perusal of the salary slip, it is evident that the total salary of the petitioner (husband) is Rs.1,07,840/-. He is contributing Rs.20,000/- per month towards General Provident Fund. In other words, he is contributing approximately 1/5th of the amount towards GPF. Such deduction to the extent of 20% is not mandatory. This major portion of the aforesaid contribution is voluntary. Moreover, the wife and the daughters are entitled to a comfortable life particularly when the petitioner(husband) is an officer.

7. As regards the argument of the learned counsel representing the petitioner(husband) that the respondents (wife and daughters) are living in the same house, it may be noted that same would not have any impact on the

assessment made particularly when the gross salary is Rs.1,07,840/-. Moreover, the salary statement is of December, 2021. One and half year have elapsed.

8. The last argument of the learned counsel representing the petitioner(husband) is with regard to the bank balance.

9. This Court has examined the statement of accounts. No doubt, at one point of time she was having credit of Rs.6,00,000/-, however, the majority of the aforesaid amount was withdrawn. In any case, if she has certain savings for the marriage of daughters, this Court does not find it appropriate to deny maintenance only on that score.

10. As far as the argument of the learned counsel representing the respondents (wife and daughters) is concerned, he submits that the Family Court has erred in directing payment of interim maintenance from the date of order and not from the date of filing an application. Once the application has been filed unless there are certain justifiable reasons, the order of maintenance should be from the date the application was filed. The rationale behind granting maintenance from the date of application is to safeguard deserted wife and dependent children from hardship, destitution and vagrancy. Due to the length of time, it takes to reselue an application which frequently exceeds several years if maintenance is not paid from the date of application, the party seeking maintenance would be deprived of sustenance.

11. Keeping in view the aforesaid facts, both the revision petitions are disposed of with the modification that the amount of maintenance shall be paid from the date the application was filed and not from the date of order.

12. All the pending miscellaneous applications, if any, are also disposed of.

August 02, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO