

102 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2179-2022

Date of Decision :28.04.2023

Vinod Kumar

...Petitioner

versus

Raj Luxmi

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. SanchitPunia, Advocate for the petitioner.

B.S. Walia, J. (Oral)

1. Prayer in the instant petition is for modification of order Annexure P/7 dated 09.05.2022, passed by the learned Addl. Family Judge, Family Court, Hisar, and to enhance maintenance pendent lite.

2. A perusal of the record reveals that a petition was filed under Section 13 of the Hindu Marriage Act, 1955, by the respondent-wife for dissolution of marriage and the petitioner moved an application in the said petition under Section 24 of the Hindu Marriage Act, 1955 for grant of maintenance pendent lite by alleging that the respondent-wife had deserted him without any reasonable cause or excuse after her appointment as PRT Teacher in KendriyaVidhyalya, Srinagar on account of which, he had already undergone serious mental depression and was out of job, was unable to proceed with the litigation, besides was unable to maintain himself whereas the respondent-wife on the other hand was an able bodied person being in government job and was earning handsome salary of more than Rs.80,000/- per month and in the circumstances, prayer was that he be granted Rs.33,000/- as one time litigation expenses and Rs.40,000/- per month as maintenance pendent

lite.

3. The learned Addl. District Judge, Family Court, Hisar, vide order Annexure P/7 dated 09.05.2022, awarded a sum of Rs.3,000/- per month towards maintenance pendent lite to the petitioner w.e.f. the date of application besides awarded him one time litigation expenses of Rs.5,500/- by taking into account the fact that although the petitioner was not in job but it had been proved on the record that he was owner of agricultural land which had been concealed by him as also in view of the fact that he was admittedly professionally qualified being Bachelor in Computer Applications.

4. On the previous date i.e. 22.03.2023, learned counsel had pointed out that two sisters were married to two brothers with one out of the two sisters i.e. respondent being married to the petitioner and that there were chances of amicable settlement, for which, time be granted. Having heard the case at length but prima facie finding no case warranting intervention with the order passed by the learned Addl. Principal Judge, Family Court, Hisar, but with a view to enable amicable settlement of the dispute, the matter was adjourned to 27.04.2023. On 27.04.2023, none was present on behalf of the petitioner and in view of request received from the Bar Association, the case was adjourned for today. Today, learned counsel for the petitioner has frankly stated that the attempt at amiable settlement has proved to be futile. Learned Counsel has reiterated that the respondent is earning a handsome salary whereas the petitioner has no job therefore he is entitled to award of maintenance pendent lite minimum of half of the salary as being drawn by the respondent.

5. I have considered the submissions of learned counsel for the petitioner and perused the record.

6. The plea of the respondent-wife before the learned Family Court was that the petitioner was owner of agricultural land which had been concealed by him, that at the time of marriage the father of the petitioner had stated that they were having 10 acres of land, 15/20 buffaloes besides the petitioner himself had claimed to be qualified as MCA whereas he was actually BCA besides the family of the petitioner had disclosed that they had invested Rs.20 Lakh out of the retirement benefits received by the father of the petitioner by lending money to the villagers. However, due to incompatibility, on 28.07.2019, a brotherhood panchayat was convened, wherein it was agreed that the marriage between the petitioner and respondent-wife be dissolved and the petitioner was a signatory to the agreement and the petitioner had also concealed the fact that he had filed a petition under Section 9 of the Hindu Marriage Act, 1955, which was later on withdrawn after receiving Rs.14 Lakh from Jagdish Parshad maternal uncle of the respondent and later on he refused to file a petition for dissolution of marriage due to which the respondent-wife had been constrained to file a petition under Section 13 of the Hindu Marriage Act, 1955. The Family Court on the basis of affidavits of assets and liabilities filed by the parties came to the conclusion that although the respondent-wife was a teacher in Kendriya Vidhyalya, Srinagar, the petitioner was admittedly not in job but it had been proved on record that he was owner

of agricultural land which had been concealed by him besides he also admitted that he was professionally qualified being BCA. However, taking into account all aspects of the matter as also the fact that the petitioner was able bodied and well education person, therefore, it was expected that he would not only maintain himself but also maintain his family. Accordingly, in view of the position noted above, the petitioner was awarded a sum of Rs.3,000/- per month towards maintenance pendent lite besides was also awarded a sum of Rs.5,500/- as one time litigation expenses while making it clear that the amount of maintenance awarded to the petitioner would be liable to bet set off against any other maintenance claim being received by him against the respondent and that the maintenance would be continued till he get a job or till the conclusion of the proceedings, whichever was earlier. The order passed by the learned Family Court, Hisar, is a well reasoned order and in view of the position noted above, I do not find any merit to interfere with the well reasoned order.

7. Dismissed.

28.04.2023
rajesh

(B.S. Walia)
Judge

Whether speaking/ reasoned : Yes/No

Whether reportable : Yes/No