

In the High Court of Punjab and Haryana at Chandigarh

CRR(F)-742 of 2022

Date of Decision: 23.1.2023

Satya Pal

---Petitioner

versus

Manju Bala Nagpal and another

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Ankur Lal, Advocate
for the petitioner
Mr. Punit Malik, Advocate
for the respondents

JAGMOHAN BANSAL, J. (ORAL)

The petitioner, through the instant petition is seeking setting aside of order dated 25.7.2022 whereby Principal District Judge (Family Court), Gurugram has allowed maintenance of Rs. 35,000/- per month to respondents i.e. Rs. 15,000/- to respondent No. 1-wife and Rs. 20,000/- to respondent No. 2-minor daughter of the petitioner.

Learned counsel for the petitioner inter alia contends that Family Court has not considered income of the respondent and order has been passed considering income and assets of the petitioner which is not in terms of law of land. The Family Court was duty bound to consider income of the respondent because she is getting rent from different properties.

Learned counsel for the respondents submits that the

Family Court has rightly assessed income of the petitioner.

The relevant extracts of order dated 25.7.2022 read as:-

At this stage, respondent being husband of petitioner no.1 and father of petitioner no.2 is duty bound to maintain them. He is liable to pay money for the education of the son of the parties (though he has not been made party in this petition). It may further be pointed out that respondent has been alleged to be earning Rs.10 Lacs per month. Some sale deeds have been produced on the file showing the respondent to be owner of those properties. Petitioner no.1 in her affidavit has shown eight properties in the name of respondent and two concerns of the business of the respondent. Respondent has also admitted owning of some properties in his affidavit. Two properties, he has shown to be jointly owned by respondent and petitioner no. 1 i.e. one house in Jyoti Park and one HUDA plot in Sector 38, Gurugram. He has shown himself to be the owner of four properties in his affidavit including three agricultural lands, one residential house and a shop at Alwar. Petitioners have specifically alleged that respondent is earning income through rent received from his properties. The respondent has alleged that it is petitioner no.1 who is getting rent from that properties. But nothing has been produced on file by respondent to show that petitioner no.1 is getting any rent from the properties owned by respondent. Some jamabandis of the land of the respondent have been produced on file and the sale deeds available on file also reflect ownership of the respondent regarding the properties mentioned in the affidavit of the parties. One property situated in Madanpuri has been got transferred from the name of petitioner no.1 to the name of respondent vide sale deed no. 15589 dated 24.09.2014 (though this fact has been concealed by

respondent). In addition to this, certain documents available on file show that respondent is running "Nagpal Tent and Furniture" as well as "Nagpal Generators & Tent House". The respondent though has alleged that he suffered losses during Corona. Now that period is already over and now the respondent cannot take the plea that he is not getting any income from that business. From the properties owned by respondent and the business being run by him, it is clear that he must be earning handsome income. The account statement of petitioner no.1 reflects deposit of an amount of Rs.1,15,00,000/- in her account but that amount stood transferred to respondent or to his brothers by and by, regarding which various entries are existing in her statement of account. She was having Rs.4,41,542/- only as on 05.12.2008. The respondent has not been able to show that petitioner no.1 is having any source of income and she is getting any fixed sum of amount every month in her account. Therefore, it shall be concluded that petitioners are not having any source of income. Thus, respondent being husband of petitioner no. 1 and father of petitioner no. 2 requires to maintain them properly as he is having handsome source of income. Petitioner no. 2 is taking treatment of her tuberculosis and she also requires money for her further education."

Keeping in view the present cost of living; social and legal responsibility of the petitioner to maintain his family and maintenance awarded; this court does not find that amount of interim maintenance fixed by court below is on higher side, thus, the present

petition deserves to be dismissed on merits. Accordingly dismissed.

Learned counsel for the petitioner at this stage submits that Family Court may be directed to consider income of the respondent because petitioner has given names and mobile numbers of the tenants who are making payment towards rent to the respondent.

The submission of learned counsel for the petitioner seems to be fair, thus, Family Court is directed to decide quantum of final maintenance after considering income and assets of respondent within three months from today.

(JAGMOHAN BANSAL)
JUDGE

23.1.2023

paramjit

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No