

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRR 1808/2023
Date of decision: 10.08.2023.

Bimla

.....Petitioner

Vs.

Raj Kumar and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Nisha Rana, Advocate for the petitioner.

Nidhi Gupta, J.

Challenge in this revision petition is to the order dated 8.6.2022 passed by the Id. JMIC, Hisar whereby, in an application filed by the petitioner under Section 23 of the Protection of Women from Domestic Violence Act, 2005 the respondent no.1-husband has been directed to pay interim maintenance of Rs.4000/- per month to the petitioner; as also to the order dated 10.7.2023 passed by Addl. Sessions Judge, Hisar whereby the appeal filed by the petitioner against aforesaid order dated 8.6.2022 has been dismissed.

Ld. Counsel for the petitioner submits that marriage of the petitioner was solemnized with respondent no. 1 on 29.7.2000. It was second marriage for both parties. Both parties had one child each from their respective first marriage. No child was born out of the wedlock between petitioner and respondent no.1. It is submitted that impugned orders are perverse as the respondent no.1 is earning Rs.50,000/- per month and therefore, interim

maintenance of Rs.4000/- awarded to the petitioner is inadequate and deserves to be enhanced.

No other argument has been raised.

Heard ld. Counsel.

In this regard findings returned by the ld. JMIC contained in para 7 of the impugned order dated 8.6.2022 are relevant and are extracted below:-

“(7) In the income and expenditure affidavit filed on behalf of the petitioner she has stated that respondent No. 1 has monthly earnings of 15,000/- from Kiryana Store, Rs.18,000/- from his employment with Indovax Private Limited and 140,000/- from the agricultural land. She further submitted that the petitioner has no independent source of income and she only owned plot No. 155 measuring 110 sq. yards situated in Tibbadanasher, Hisar. The respondent on his part had mentioned in his income and expenditure affidavit that he has monthly earnings of Rs.15,688/- from his employment with the Indovax Private Limited. His affidavit was also accompanied by his salary slip wherein the aforesaid claim of respondent No. 1 has been corroborated. Respondent No. 1 had further submitted that out of the aforesaid earnings a substantial portion is paid towards repayment of the loan. His father had bequeathed 1/6 share in land measuring 32 Kanal 8 Marla situated in village Siswala in his favour. It is in light of the aforesaid facts that we will proceed to determine the reliefs to which the petitioner is entitled. The petitioner's claim that respondent No. 1 has monthly earnings in the range of Rs.73,000/- is not supported by any cogent evidence. On the contrary, respondent No. 1 has furnished material on record to show that he has monthly earnings of Rs.15,688/- from his employment with Indovax Private Limited.

Significantly, the house shown to be owned by the petitioner in her affidavit was previously jointly owned by the petitioner and respondent No. 1 in equal shares. ***Subsequently, respondent No. 1 had relinquished his half share in the aforesaid house in favour of the petitioner.*** In light of the aforesaid fact, this Court is of the view that the petitioner is not entitled to any relief of accommodation or rent in lieu thereof from respondent No. 1. Interestingly, during the course of arguments on the aforesaid application, Ld. counsel for the respondents had placed on record copy of Jamabandi for the year 2011- 2012, ***wherein the petitioner is shown to be co- owner to the extent of 1/24 share of Khasra numbers 57//2/2. 3, 4, 7 and 8 and 1/8th share of land comprised in Khasra numbers 158//12/2, 13/2, 17/2, 18, 19, 22, 23 and 24 situated in village Luhari Ragho, Tehsil Namaund. The aforesaid fact has been concealed by the petitioner in her affidavit.*** In light of the aforesaid discussion, this Court is of the view that ends of justice would be met if the petitioner is awarded monthly interim maintenance of Rs.4000/-.”

Ld. Counsel for the petitioner is unable to deny the above said facts/findings as recorded in the impugned order. In this view of the matter, no case for exercising revisional jurisdiction of this Court is made out.

Dismissed.

10.08.2023.
Joshi

(Nidhi Gupta)
Judge