

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
227
CRR-F-297-2016 (O&M)
Date of decision: 05.09.2023

Neelam & Another

...Petitioner(s)

Vs.

Jai Singh

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. R.S. Longia, Advocate
for the petitioners.

Mr. Ram Pal Verma, Advocate
for the respondents.

NIDHI GUPTA, J.

CRM-11737-2023

This is an application for placing on record wage certificate (Annexure P2) dated 16.02.2023 of the respondent for the years 2019 and 2023 and seeking exemption from filing certified copy thereof.

After going through the contents of the application, the same is allowed and Annexure P2 is taken on record.

MAIN CASE

Challenge in the present petition is to order dated 03.08.2016 passed by learned District and Sessions Judge, District Judge, Family Court, Sonipat whereby in an application filed by the petitioners under Section 125 Cr.P.C., the learned Family Court has awarded final maintenance of Rs.1,500/- each per month to the petitioners.

2. Learned counsel for the petitioners inter alia submits that petitioner No.1 was married to the respondent on 02.12.2007.

Petitioner No.2 was born out of this wedlock. As the respondent used to harass petitioner No.1 and had turned her out of the matrimonial home on 20.01.2013, petitioner No.1 got registered FIR No.15 dated 23.03.2013 at Police Station Women Cell, Sonipat. As the petitioners had no source of livelihood to maintain themselves, they filed petition under Section 125 Cr.P.C. before the learned Family Court, Sonipat. Vide order dated 03.08.2016, aforesaid petition was allowed, and petitioners were granted maintenance of Rs.1,500/- each per month. Petitioners also filed a petition under Section 9 of Hindu Marriage Act for restitution of conjugal rights against the respondent which was also decreed in favour of the petitioners.

3. Learned counsel further submits that it has been proven on record that the respondent is employed in the Municipal Corporation, Delhi and is currently drawing a salary of Rs.16,000/- per month; he owns one acre of land; he has his own residential house in village Jhanoda Kalan, Delhi and he has no other liability. It is submitted that in these circumstances, maintenance of Rs.3,000/- per month as granted by learned Family Court is grossly inadequate and on lower side. Learned counsel further submits that petitioner No.2 is in care and custody of petitioner No.1. He is currently 14 years of age and a student of Class 8, and his fees alone is Rs.2,500/- per month besides transportation expenses of Rs.800/- per month along with other expenses of books, stationery, uniform etc. Learned counsel further submits that father of petitioner No.1 has already expired, and she has no means of sustenance.

4. Learned counsel for the respondent submits that petitioner No.1 is not entitled to maintenance as she had left the matrimonial home of her own accord. It is submitted that the respondent is merely a Safaikaramchari in Municipal Corporation, Delhi on daily wages and is barely earning Rs.8,000/- per month. It is denied that the respondent has any agricultural land. Learned counsel further submits that petitioner No.1 is working as a tailor and has adequate income for herself. It is submitted that the respondent is living in a village of Sonipat District and has to commute daily from the said village to Delhi and therefore, has to bear substantial expenses of transportation. It is further submitted that the respondent has no arrears of maintenance and has paid the maintenance till date.

5. I have heard learned counsel for the parties.

6. Relationship between the parties is not disputed. Although, it has been the pleaded case of the respondent that he is earning only Rs.8000/- per month, and that he does not own any agricultural land, however, the said submissions are contrary to the facts and findings on record. In this regard, reference may be made to the following relevant findings of the learned Family Court which are as follows:-

“8. Admittedly, petitioner No.1 is the wife of the respondent and petitioner No.2 is their minor son and petitioner No.1 alongwith her minor son is living separately at her parental home. In this case, petitioner No.1 has specifically deposed that she has no source of income to maintain herself and minor son whereas the respondent owns one-acre agricultural land, and he is also doing job in MCD. During cross-examination, respondent – Jai Singh deposed that he had a residential house in the village. He further deposed that he had one acre of

agricultural land. The respondent further admitted that he had never tried to take back petitioner No.1 to her matrimonial home. He admitted that he is doing job in MCD, Delhi and he is drawing salary of Rs.8,000/- per month. He further deposed that he had no proof regarding the income of petitioner No.1. Thus, it is clear that petitioner No.1 has no source of income to maintain herself and her minor son. The respondent being the husband of petitioner No.1 and father of petitioner No.2 is legally and morally liable to maintain them."

7. Therefore, from the above findings, it is clear that the respondent by his own admission, has acknowledged that he owns 1 acre of agricultural land and he also has a residential house.

8. Further, perusal of Annexure P2 reveals that the respondent is working as a Safaikaramchari in Municipal Corporation, Delhi on daily wage basis and his basic fixed pay is Rs.16,506/- per month, besides this he is also getting CA of Rs.180/- and therefore, is drawing a net salary of Rs.16,686/- per month.

9. In view of the above un-disputed facts and findings on record, the present petition is **allowed**. Accordingly, the order dated 03.08.2016 is modified and total final maintenance of Rs. 3000/- as granted by the learned Family Court is enhanced to Rs.6,000/- per month (Rs.3,000/- to petitioner No.1 and Rs.3,000/- to petitioner No.2), besides Rs.4,000/- as litigation expenses.

10. Pending application(s) if any also stand(s) disposed of.

05.09.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No