

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.1640 of 2024 (O&M)
Date of Decision : 22.03.2024

Sukhjinder SinghPetitioner

VERSUS

Kajal KaurRespondent

CORAM : HON’BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Devansh Khanna, Advocate for
Mr. Vaibhav Narang, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. The challenge in the present revision petition is to the order dated 22.11.2023 passed by the Family Court, Amritsar in HMA No.1924 of 2022 whereby interim maintenance of Rs.5,000/- has been awarded to the respondent-wife from the date of the application till the date of passing of the order when the main petition was withdrawn.
2. The brief facts relevant to the present case are that the petitioner-husband filed a petition under Section 12 of the Hindu Marriage Act, 1955 (hereinafter referred to as the ‘Act’) for declaring the marriage between the parties to be voidable and annul the same. The respondent-wife filed an application under Section 24 of the Act during the pendency of the petition under Section 12 of the Act. On 22.11.2023 a statement was suffered by the counsel for the petitioner-husband that due to technical defect, reserving right to seek appropriate remedy under law, he sought

permission to withdraw the petition under Section 12 of the Act. The respondent-wife, however, pressed the application under Section 24 of the Act. The same was decided vide the impugned order dated 22.11.2023. The present petition has been filed challenging the said order.

3. Learned counsel for the petitioner-husband would contend that once the petition under Section 12 of the Act itself was withdrawn the question of deciding the application under Section 24 of the Act would not arise. It is further the contention that since no written statement was filed and the petition was withdrawn at the initial stage hence the application under Section 24 of the Act also ought to have been dismissed.

4. Heard.

5. A Division Bench of this Court in the case of **Sohan Lal vs. Smt. Kamlesh [1984 PLR 485]** dealt with the same proposition of law as to whether if the main petition under the Act is decided finally whether the application for maintenance *pendente lite* and litigation expenses under Section 24 of the Act, which is pending decision, can continue. The second question which arose for determination before the Division Bench, as noticed in para 11, was that whether after the dismissal of the main petition the application under Section 24 of the Act could continue. The Division Bench held as under :

“11. The second question that arises for determination is that if the application under Section 24 continues after dismissal of the main petition, whether the applicant is entitled to the maintenance till the date of decision of the

main petition or the disposal of the application under Section 24. Section 24 has already been reproduced above. The word "proceeding" in the section appears at three places and it connotes the main proceedings, that is, proceedings other than proceedings under Section 24. The words "monthly during the proceedings such sum" are very important. These words show the intention of the legislature that it intended to give maintenance to the indigent spouse till disposal of the main petition. If the application under Section 24 is taken to be included in the word "proceeding", anomalous results would follow. Therefore, we are of the opinion that if the application under Section 24 continues after dismissal of the main petition, the applicant is entitled to the maintenance till the date of the decision of the main petition. In Sudarshan Kumar Khurana's case (AIR 1981 Punj & Har 305) (supra), a different view has been expressed by the learned single Judge wherein it was observed that there was no justification for not awarding maintenance pendente lite to the wife even beyond the conclusion of the main petition till proceedings under Ss. 24 and 26 of the Act were finalised. With great respect to the learned Judge, we do not agree with the above observations. Consequently, we overrule the said case to this extent

only, However, it may be reiterated that we have approved the other observations of the learned Judge in this case, as mentioned above.”

6. In view of the law laid down by the Division Bench of this Court in the above referred case wherein it has been held that if an application under Section 24 of the Act continues after the dismissal of the main petition the applicant therein would be entitled to maintenance till the decision of the main petition.

7. No argument as regards quantum of maintenance *pendente lite* has been addressed.

8. In view of the above, the present revision petition is dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

22.03.2024
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO