

2024:PHHC:139089-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-4923-2024 (O&M)

Date of decision: 21.10.2024

HARISH KUMAR SHARMA

...Appellant

Versus

ANJALI

...Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Yogesh Kumar Saini, Advocate for appellant.

SUDHIR SINGH, J.

CM-18541-CII-2024

For the reasons given in the application, the same is allowed and the delay of 15 days in filing the appeal is condoned, subject to all just exceptions.

FAO-4923-2024

Challenge in the present appeal is to the order dated 03.07.2024 passed by the Learned Principal Judge, Family Court, Hisar (for short 'the Family Court'), whereby an application under Section 24 of the Hindu Marriage Act (for short 'the Act') filed by the respondent-wife, has been allowed and the appellant-husband has been directed to pay the respondent-wife an amount of Rs.15,000/- per month as maintenance *pendent lite* from the date of filing of the

application till the final disposal of the main petition, besides an amount of Rs.11,000/- as litigation expenses.

2. In the petition under Section 9 of the Act filed by the respondent-wife, she had also filed an application under Section 24 of the Act for grant of maintenance *pendent lite* and litigation expenses. In the said application, it was stated by the respondent-wife that she was legally wedded wife of the appellant-husband and out of the said wedlock a female child was also born. It was further averred by her that she had no source of income, whereas the appellant-husband was serving as an L.D.C. in Municipal Committee, Alwar and earning Rs.60,000/- per month.

3. The aforesaid application had been contested by the appellant-husband stating therein that the respondent-wife had withdrawn from his company of her own sweet will; that he was not earning Rs.60,000/- per month and that the respondent-wife being highly qualified (M.Com), was earning more than Rs.35,000/- per month and, therefore, she was not entitled to any maintenance.

4. The learned Family Court, after considering the rival contentions of the parties and taking into account the affidavits regarding the income, assets and liabilities furnished by the parties, has allowed the application filed by the respondent-wife, as noticed above.

5. Learned counsel for the appellant-husband has vehemently contended that the respondent-wife cannot be allowed to take benefit of her own wrongs. It is further submitted that she had withdrawn from the company of the appellant-husband without any

justified cause and even the main petition under Section 9 of the Act, was also liable to be dismissed. It is further submitted that the appellant-husband is drawing a salary of Rs.54,191/- and he is maintaining his two children from previous marriage, who are studying in 10+2 and 8th Class, respectively and besides that the appellant-husband is also to take care his old aged mother. It is yet further submitted that the appellant-husband had spent an amount of Rs.4,26,100/- on a plot measuring 125 square yard, situated at Abhinav Vihar, Jaipur, which was already gifted to the respondent-wife and the current price of the said plot is between 12-15 lakhs. It is, thus, submitted that the respondent-wife is not entitled to any maintenance.

6. We have heard learned counsel for the appellant-husband and have also gone through the impugned order passed by the learned Family Court.

7. The relationship between the parties and birth of the female child from the said wedlock is not disputed. The learned Family Court on the basis of the affidavits of the parties regarding their income, assets and liabilities, found that the appellant-husband was drawing a salary of Rs.54,191/- (net pay) per month after deduction and besides that he was also having a share in the ancestral property. Thus, the general monthly expenses of the appellant-husband were taken to be Rs.55,000/- to 60,000/-. It was further found that the respondent-wife was not having any source of income, whereas the appellant-husband was having requisite means to pay the maintenance amount.

8. It is settled law that while deciding the application for maintenance *pendent lite*, the Court has to see the parallel resources of the parties. In the instant case, the monthly income of the appellant-husband as noticed above, is not in dispute and there is no material or document on record to held that the respondent-wife has any source of income.
9. We find that the impugned order passed by the learned Family Court does not suffer from any illegality. Merely because the appellant-husband is also taking care of his other two children statedly born from his previous marriage, is no ground to deny the legal right of the respondent-wife.
10. In view of the above we do not find that the impugned order passed by the learned Family Court is perverse or illegal.
11. No other point has been urged.
12. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.
13. Pending application(s), if any, shall also stand disposed of.

[SUDHIR SINGH]
JUDGE

[JASJIT SINGH BEDI]
JUDGE

21.10.2024
Himanshu

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