

(1991) 08 DEL CK 0017

In the Delhi High Court

Case No : Civil Revision Appeal No. 4 of 1991

Ajay Mehra

APPELLANT

Vs

Poonam Mehra

RESPONDENT

Date of Decision : 01-08-1991

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Hindu Marriage Act, 1955 — Section 24

Citation : (1991) 45 DLT 39 : (1991) 2 DMC 338 : (1991) 1 DRJ 447 Supp

Hon'ble Judges : S. Duggal, J

Bench : Single Bench

Advocate : R.K. Gupta and S.K. Bhaduri, for the Appellant;

Judgement

Santosh Duggal, J.

(1) By this application, the respondent in these proceedings claim litigation expenses The question of maintenance pendente lite is subject matter of the main-petition and for that reason she has not made any fresh claim here. In so far as litigation expenses are concerned, the plea is that her income earlier was enough to meet her requirements but now there is an additional plea that she is out of employment since April 1991. That fact is disputed by the petitioner. The certificate of termination of service has been filed only with the rejoinder and I am informed that the respondent has also filed in the trial Court an application for enhancement of maintenance based on this very plea of termination of employment. It is stated that such an application has been filed and even notice has been served and the petitioner has filed a reply.

(2) One of the basic grievance in this revision petition made by the petitioner is that the documentary evidence placed on record by him has not been properly taken into consideration by the trial Court, which fact is being disputed by the respondent.

(3) In view of the fresh application having been filed by the respondent claiming

enhancement, the matter is an a way before the trial Court because of an application having been filed by the respondent for enhancement. This revision petition in a way becomes infructuous because the trial Court is bound to pass a fresh order in respect to the maintenance pendente lite payable to the respondent.

(4) The petitioner's grievance in this revision petition can be remedied by directing the trial Court to afford opportunity to the petitioner to produce evidence in respect to his income but that should be in the light of the documents already filed. The Court shall allow opportunity to the respondent to prove her present income and the factum of her alleged termination of service by evidence and correspondingly to the petitioner to rebut the same by evidence. The petitioner shall get opportunity of producing evidence as to the total personal income of the respondent.

(5) In view of the above, it is admitted on both sides that this revision petition has become infructuous and should be dismissed as such. It is, however, agreed that pending further orders of the trial Court, in terms of the directions given in this order, the petitioner shall go on paying maintenance as before.

(6) The petition shall pay Rs. 1.500.00 as litigation expenses of this revision petition. This should be paid before the next date in the trial Court. It is stated that the case is now fixed in the trial Court on 8th August, 1991. The parties shall appear in the trial Court on the date fixed personally or through their counsel.

(7) With these directions, the revision petition is dismissed as infructuous.