

(2011) 11 MP CK 0091

In the Madhya Pradesh High Court

Case No : Writ Petition No. 15779 of 2011

Avneesh Vyas

APPELLANT

Vs

Smt. Ambar Vyas (Sukla)

RESPONDENT

Date of Decision : 02-11-2011

Acts Referred:

Constitution of India, 1950 — Article 227
Hindu Marriage Act, 1955 — Section 24

Citation : (2012) 1 DMC 27

Hon'ble Judges : Sanjay Yadav, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sanjay Yadav, J.—Heard

This petition under Article 227 of the Constitution of India is directed against the order dated 1.7.2011 passed by the Principal Judge, Family Court, Bhopal; whereby, while allowing the application u/s 24 of the Hindu Marriage Act, 1955, fixed pendente lite maintenance for the respondent-wife and son to Rs. 7,000 (Rs. 3,000 for wife and Rs. 4,000 for the son) and Rs. 5,000 towards legal expenses.

2. Suit for divorce is by the petitioner. The petitioner and respondent No. 1 have a son aged 9 years born out of wedlock. The son lives with the wife who earn her livelihood by teaching in school where she earns Rs. 7,577 per month. The son studies is in Class-IV. The petitioner on the other hand is a Placement Officer in Devi Ahilya Bai Vishwavidyalaya, Indore, and earns Rs. 15,876.

3. Respondent filed an application u/s 24 of the Hindu Marriage Act, 1955, for maintenance pendente lite claiming Rs. 25,000 per month.

4. The Trial Court after considering the entire facts held that Rs. 7,000 i.e. Rs. 3,000 for the wife and Rs. 4,000 for the son per month would be sufficient to meet out the monthly maintenance expenses. The Trial Court also granted Rs.

5,000 for legal expenses. The petitioner assails the order on the ground that the amount towards maintenance pendente lite is excessive and the respondent-wife also earn through teaching and, therefore, not entitled for the maintenance pendente lite. The contention that the respondent is employed and is earning a fixed amount, therefore, not entitled for maintenance during the pendency of litigation cannot be accepted, because besides maintaining herself she has to look after her son and meet out her daily expenses besides the teaching expenses. Therefore, while looking after the child in the best possible manner, she has a right to live with dignity. The amount of Rs. 3,000 per month for maintenance pendente lite cannot be said to be excessive nor the amount of Rs. 4,000 per month for the maintenance of child. The order cannot be faulted with. The petition fails and is hereby dismissed.