

(1996) 11 DEL CK 0006

In the Delhi High Court

Case No : Civil Revision Appeal No. 821 of 1995

Devinder Nath Sondhi

APPELLANT

Vs

Raj Sondhi

RESPONDENT

Date of Decision : 01-11-1996

Acts Referred:

Hindu Marriage Act, 1955 — Section 24

Citation : (1997) 1 AD 81 : (1997) 1 DMC 298 : (1996) 39 DRJ 639

Hon'ble Judges : J.K. Mehra, J

Bench : Single Bench

Advocate : Mahendra Pal and K.P. Kapoor, for the Appellant;

Judgement

J.K. Mehra, J.

(1) This Civil Revision Petition arises from an order of the Additional District Judge granting monthly pendente lite maintenance of Rs.1,000.00 from the date she superannuated from her job. The petitioner has challenged the said order mainly on the ground that he is not having any income and that he has lost his job also. The petitioner has, however, admitted that in place of Maruti 1000, he has now bought a new Maruti Zen car. It is common knowledge that it is an expensive car and maintenance and fuel cost of the car would come to about Rs.3,500.00 p.m. if the petitioner does not employ any driver. I tried to take up the matter in the Chamber with a view to ascertain whether there was a possibility of any reconciliation between the two, but such efforts failed. After her retirement, she has moved into flat at Vasant Kunj and has, as a consequence, lost the rental income of that flat also. She is getting a pension of Rs.2,898.00 p.m. I find difficult to accept the version of the petitioner that in order to buy a Zen car, which costs little over Rs.3 lakhs, he had to sell his commercial flat which has resulted in loss of perpetual income from that flat. The petitioner admittedly had raised Rs.1,75,000.00 from the sale of Maruti 1000 and had only to raise an equal amount to buy new Zen Maruti car. The Trial Court has, however, committed a serious error in the order in holding that he was getting a

monthly retainership of Rs.31,215.00 from Phosphate Company Limited whereas according to the certificate issued by the said company, this was the yearly retainer. The main ground of opposition to the impugned order is lack of sufficient income to bear any burden of maintenance which submission does not appear to be credit worthy and appears to be incorrect in the light of the assets disclosed before the Trial Court.

(2) The Trial Court has duly kept in view the fact that the respondent is having an income from pension. Therefore, she needed only to supplement that income. Assuming that the petitioner's income has gone down in the meantime, still it will be appropriate that he pays certain amount to his wife towards maintenance, I am unable to find any fault with the impugned order on this account. The petitioner has produced a certificate from the said Phosphate Company Limited purporting to show that after deduction of provident fund and pension scheme, his salary received from the Company for one year was Rs.34,755.00 . Assuming that salary is as low as reflected in the said certificate and accepting the fact that both petitioner as well as the respondent who are living alone, but one fact that cannot be lost sight of the fact that she is meeting all the parental obligations towards the married daughters. In that view and in view of other facts noticed above, it will be desirable and appropriate that the petitioner should pay a certain part out of his income to her. I consider that taking an over all view of the circumstances brought on record, it will be fair if the petitioner pays to the respondent from the date of her superannuation, maintenance at the rate of Rs.700.00 p.m. Ordered accordingly.

(3) The respondent is given liberty to move for enhancement of this maintenance in case there is any evidence of the increase in petitioner's income. No other point arises. This petition is disposed of in the above terms. No order as to costs.