

(1997) 11 MP CK 0028
In the Madhya Pradesh High Court
Case No : F.A. No. 184 of 1993

Kanhaiyalal Mangilal Maghia

APPELLANT

Vs

Smt. Chandabai Maghia

RESPONDENT

Date of Decision : 26-11-1997

Acts Referred:

Hindu Marriage Act, 1955 — Section 25

Citation : (1998) 2 MPLJ 215

Hon'ble Judges : Jayant Govind Chitre, J

Bench : Single Bench

Advocate : B.L. Pavecha and Sunil Jain, for the Appellant; Salim Khan and I. Ansari, for the Respondent

Final Decision : Dismissed

Judgement

J.G. Chitre, J.

This appeal is for challenging the order of the trial Court by which the trial Court granted permanent alimony in favour of respondent/wife in absence of a separate application in view of the provisions of Section 25 of the Hindu Marriage Act, 1955 (hereinafter referred to as Act).

Shri Pavecha, counsel for the appellant submitted that there should have been a separate application for claiming permanent alimony in view of the provisions of Section 25 of the Act.

Shri Salim Khan, counsel for the respondent pointed out that such a prayer has been made in matrimonial petition itself and that is sufficient for invoking the powers of the Court in view of the provisions of Section 25 of the Act. He justified the impugned order of permanent alimony as correct, proper and legal.

Section 25(1) of the Act provides as under :-

"Any Court exercising jurisdiction under this Act may, at the time of passing any decree or at any time subsequent thereto, on application made to it for the

purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant as, having regard to the respondent's own income and other property, if any, the income and other property of the applicant, the conduct of the parties and other circumstances of the case, it may seem to the court to be just, and any such payment may be secured, if necessary, by a charge on the immovable property of the respondent."

The provisions of the Act are for the purpose of dealing with the matrimonial aspects of the spouses. The provisions embodied in the Act in context with the alimony are benevolent. No strict rule has to be applied in dealing with a prayer made by the wife in matrimonial cases for getting alimony. Due importance has to be given to the words "any Court exercising jurisdiction under this Act may at the time of passing any decree or at any time subsequent there to". These words mean according to me that the Court is empowered to consider the prayer of the wife in matrimonial cases for permanent alimony at any time subsequent to the passing of the decree. The total meaning of words used in Section 25 empowers the Court to grant permanent alimony to a wife in matrimonial cases in absence of separate application; if such a prayer has been made by the wife in the matrimonial petition itself.

Thus, I do not find that the order which is being assailed is in any way incorrect, improper or illegal. Thus the appeal stands dismissed with cost.