
(2001) 03 P&H CK 0168
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 4499 of 2000

Kulwant Kaur alias Preeti

APPELLANT

Vs

Prem Nath

RESPONDENT

Date of Decision : 15-03-2001

Acts Referred:

Constitution of India, 1950 — Article 227

Hindu Adoptions and Maintenance Act, 1956 — Section 18, 18(1), 20, 20(2)

Citation : (2002) 1 CivCC 498 : (2002) 1 DMC 565 : (2001) 3 RCR(Civil) 768

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mrs. Kulwant Kaur, for the Appellant; Mr. Sumeet Mahajan, for the Respondent

Judgement

R.L. Anand, J.—The present revision under Article 227 of the Constitution of India has been filed by Smt. Kulwant Kaur alias Preeti, styling herself to be the wife of Prem Nath, respondent No. 1, Ramandeep alias Prince, who is major and was born to Smt. Kulwant Kaur from the loins of Prem Naih, respondent No. 1, and Miss Pooja Deep, minor daughter born to Smt. Kulwant Kaur from the loins of respondent No. 1 and it is directed against Prem Nath, so-called husband of Smt. Kulwant Kaur, Yash Pal, Vikram Kumar, who are sons of Prem Nath born from the womb of Nirmala Devi, who according to Prem Nath is his legally wedded wife.

2. Some facts can be noticed in the following manner :-The petitioners filed a petition u/s 18 read with Section 20 of the Hindu Adoption & Maintenance Act (hereinafter referred to as "the Act") in the Court of Civil Judge (Jr. Division), Ludhiana. During the pendency of those proceedings, they also filed an application for grant of interim maintenance. Notice of the application was given to the respondents and after the contest vide order dated 29.5.1999 the learned Civil Judge (Jr. Division), Ludhiana thought it proper not to award any interim maintenance till the main petition u/s 18 read with Section 20 of the Act is finally

disposed of.

3. Not satisfied with the impugned order dated 29.5.1999, the present petition under Article 227 of the Constitution of India.

4. Notice of the petition was given to the respondents who have contested the same hotly.

5. I have heard petitioner No. 3 Smt. Kulwant Kaur, who is incidentally a lawyer, on behalf of the petitioners, Mr. Sumeet Mahajan, Advocate on behalf of the respondents and with their assistance have gone through the record of the case.

6. Section 18(1) of the Act lays down as follows :-

"Subject to the provisions of this Section, a Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained by her husband during her life time."

7. It is the case of Smt. Kulwant Kaur that she is the wife of Prem Nath and she admitted herself before him and during the cohabitation she gave birth to Pooja Deep and Ramandeep alias Prince. This aspect of the case is being denied by Prem Nath, whose case is that Smt. Kulwant Kaur is not his legally wedded wife. Of course, he admits that Pooja Deep and Ramandeep were born to Smt. Kulwant Kaur from his loins. In short, Prem Nath contests the claim of Smt. Kulwant Kaur on the plea that she is not his legally wedded wife and, therefore, she is not entitled to any maintenance u/s 18 of the Act and more so she is not entitled to any interim maintenance.

8. The point will be adjudicated by the trial Court itself but one thing is very clear from the admission of Prem Nath that he cohabited with Smt. Kulwant Kaur. No sane lady would surrender herself unless she treats his male companion as her husband. Whether the marriage is legally proved or not that is a point to be determined by the trial Court itself. But keeping in view the fact that Smt. Kulwant Kaur had cohabited with Prem Nath, therefore, I am inclined to award interim maintenance to her.

9. The learned counsel appearing on behalf of the respondents submitted that Smt. Kulwant Kaur is a practising lawyer and she earns to such an extent that she can maintain herself and her two children. On the contrary, Smt. Kulwant Kaur submits that though she is a lawyer but she is not a flourishing one and in the modern time it is very difficult for her to maintain herself as well as her two children. Admittedly, Ramandeep is major and Pooja Deep is minor. In this view of the matter I direct Prem Nath to pay Rs. 2,000/- per month by way of interim maintenance to Smt. Kulwant Kaur and this will be calculated from the date of the filing of the application u/s 18 read with Section 20 of the Act.

10. With regard to Ramandeep alias Prince this Court is not in a position to allow his interim maintenance because of the specific bar u/s 20(2) of the Act with lays down as under :-

"A legitimate or illegitimate child may claim maintenance from his or her father or mother so long as the child is a minor."

11. Ramandeep alias Prince was born on 10.11.1977. He became major in 1995 and the main petition u/s 18 read with Section 20 of the Act was filed in the year 1997 itself. Therefore, no interim maintenance is being granted to Ramandeep alias Prince. So far as the case of Pooja Deep is concerned, admittedly, she is minor. She is in the custody of her mother Kulwant Kaur who is looking after her. She is aged about 15 years and is a student of 10+1. Therefore, some interim arrangement has to be made for her also and I direct the respondent No. 1 Prem Nath to pay a sum of Rs. 2,000/- per month by way of interim maintenance and this amount shall also be calculated from the date of the application u/s 18 of the Act.

12. The learned counsel Smt. Kulwant Kaur submitted that directions may also be issued against Yash Pal, Vikram Kumar and Nirmala Devi in this regard since they are the partners and co-owners of the property with Prem Nath. This request of Smt. Kulwant Kaur cannot be accepted because the cause of action of the wife is against the husband and not anybody else.

13. In this view of the matter, this revision stands disposed of in the light of above directions.

14. It is hereby clarified that even if the main petition of the petitioners fails but they shall not refund the amount of interim maintenance.

15. Order accordingly.