
(2011) 03 P&H CK 0322

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 5378 of 2010 (O and M)

Manish Ahlawat

APPELLANT

Vs

Neelu Chaudhary @ Neelisha Singh

RESPONDENT

Date of Decision : 18-03-2011

Acts Referred:

Constitution of India, 1950 — Article 227
Hindu Marriage Act, 1955 — Section 13, 24

Citation : (2011) 03 P&H CK 0322

Hon'ble Judges : Ram Chand Gupta, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ram Chand Gupta, J.—The present revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 30.7.2010, Annexure P3, passed by learned District Judge, Family Court, Hisar, allowing application dated 21.4.2010, Annexure P1, filed u/s 24 of the Hindu Marriage Act, 1955, (hereinafter to be referred as "the Act") by Respondent-wife in proceedings for divorce u/s 13 of the Act instituted by Petitioner-husband against Respondent-wife, vide which present Petitioner was directed to pay Respondent-wife a sum of Rs. 15,000/- per month as maintenance pendente lite from the date of filing of the main petition, i.e., from 24.12.2008 and Rs. 5,500/- as litigation expenses.

2. I have heard learned Counsel for the parties and have gone through the whole record carefully including the impugned order passed by learned District Judge, Family Court, Hisar.

3. Marriage between the parties is not disputed, which was solemnised on 2.10.2000. Two children were also born out of the wedlock. Differences arose between the parties, hence, they are living separate. Respondent-wife is living with her parents. Petitioner-husband filed petition u/s 13 of the Act for divorce on 24.12.2008, which is pending before learned District Judge, Family Court, Hisar.

4. During pendency of the petition, the present application u/s 24 of the Act, Annexure P1, was filed by Respondent-wife on 21.4.2010, which was contested by present Petitioner-husband by filing reply, Annexure P2, which was allowed by learned District Judge, Family Court, vide impugned order dated 30.7.2010, Annexure P3. Petitioner-husband was directed to pay Rs. 15,000/- per month as maintenance pendente lite from the date of filing of the main petition, i.e., 24.12.2008 besides Rs. 5500/- as litigation expenses.

5. It has been contended by learned Counsel for the Petitioner that learned District Judge, Family Court, has committed illegality ordering for payment of maintenance pendente lite from the date of main petition and rather the same, at the most, could be granted from the date of filing of the application u/s 24 of the Act, i.e., from 21.4.2010. It is further contended that Petitioner is doing business of insurance and his income is only to the tune of Rs. 51127 per month from the said insurance business as per his income tax return for the financial year 2008-09, i.e., assessment year 2009-10. It is further contended that he is not owner of any patrol pump and hence, it is contended that ad interim maintenance awarded by learned District Judge is on the higher side. It has also been contended that both the children are being maintained by the Petitioner.

6. On the other hand, it has been contended by learned Counsel for the Respondent-wife that she was treated with cruelty by Petitioner-husband and was turned out of the matrimonial home. It is further contended that Respondent is highly qualified and however, she is having no income of her own. It is further contended that Petitioner is only son of his father and that he alongwith his father is doing patrol pump business. It is further contended that family owns one patrol pump at Rohtak, one petrol pump at Deeghal and another patrol pump in partnership at Rohtak and that family also owns agricultural land and other urban properties including residential house built up in the area of about 2000 sq.yard and that they are owning and maintaining big cars and that even car given in dowry by parents of Respondent-wife was also sold away at the instance of the Petitioner. It is contended that income of the Petitioner is about Rs. 1.5 lac per month and hence, Respondent-wife is entitled to the same standard of living as she would have lived while residing with her husband. It is argued that taking into consideration the status of both the parties, ad interim maintenance as awarded by learned District Judge, Family Court, cannot be said to be on the higher side.

7. Contentions of learned Counsel for the Petitioner-wife that family of Petitioner owns three patrol pumps has not been specifically denied in the reply. The only plea taken is that the patrol pumps are not owned by the Petitioner. Though it is denied that Petitioner is not having income of Rs. 1.5 lac per month, however, the fact that family also owns agricultural land and other immovable property has also not been specifically denied in the reply. Though Petitioner is having income from the insurance business to the extent of Rs. 51,127/- per month as per income tax return for the year 2008-09, however, it cannot be believed that he,

being the only son of his father, is not having any income from three patrol pumps, being run by the family and from the agricultural land owned by his father.

8. Hence, taking into consideration the high status of the parties, learned District Judge, Family Court, in its discretion granted ad interim injunction of Rs. 15,000/- per month, which cannot be said to be on the higher side in these days of high prices.

9. However, there is force in the argument of learned Counsel for the Petitioner that learned District Judge, Family court, could not have granted ad interim maintenance from the date of the main petition and rather the same should have been granted from the date of the application of maintenance filed u/s 24 of the Act.

10. Hence, the present revision petition is partly accepted. Impugned order is modified to the extent that Respondent-wife is entitled to ad interim maintenance @ Rs. 15,000/- per month from the date of filing of the application u/s 24 of the Act, i.e., 21.4.2010.

11. Disposed of accordingly.