

(2010) 12 DEL CK 0202
In the Delhi High Court
Case No : CM (M) No. 133 of 2009

Pooja Vijhani @ Pushp Lata Sharma

APPELLANT

Vs

Raj Kuamr Vijhani

RESPONDENT

Date of Decision : 13-12-2010

Acts Referred:

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

Citation : (2011) 1796 DLT 728 : (2011) 176 DLT 728

Hon'ble Judges : G.S. Sistani, J

Bench : Single Bench

Advocate : Suresh Sharma, for the Appellant; Party-in-Person, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Sistani, J.—Present petition is directed against the order dated 3.12.2008 by which an application filed by the Petitioner (wife) u/s 24 of the Hindu Marriage Act was rejected and the application filed by the Respondent (husband) was allowed, fixing the maintenance @ 500/- per month.

2. Counsel for the Petitioner submits that while fixing the maintenance the trial Court has relied upon documents filed by the husband which are highly misleading. It is further submitted that Puja Kids Care is a nursery school, which is being run by the sister of the Petitioner. Counsel for the Petitioner also disputes the Income Tax return placed on record on the ground that the same were duly filled in by the husband. It is further submitted that the ration card filed on record of a person alleged to be a tenant in the property of the Petitioner cannot be relied upon as the ration card has been prepared by the Respondent.

3. Respondent, who appears in person, submits that he is a rikshaw puller and on account of his ill-health he works barely fifteen days a month.

4. I have heard Counsel for the Petitioner and the Respondent, who appears in

person. The facts as set out in this petition reveal that marriage between the parties was solemnized on 10.12.1986. Four children were born out of their wedlock. The eldest child is a daughter named Mala who is aged 20 years and is studying in B.C.A. at DIMT College. There are two sons (Twins) aged about 15 years and they are studying in 9th Standard and the youngest child is a daughter, who is aged 12 years and is studying in 6th Standard. All the aforesaid four children are living with the mother. The Petitioner as well as the children are residing in the matrimonial house and admittedly the Petitioner is paying for the college/school fee and all other expenses. There is absolutely no explanation rendered by the Counsel for the Petitioner with regard to the source of income of the Petitioner. On the other hand the Respondent has placed on record the income tax return of the Petitioner for the years 2005-2006, 2006-2007, which shows the income of the Petitioner as Rs. 95,850/- and Rs. 1,05,650/- respectively. Respondent has placed material on record before the trial Court that Petitioner is running a nursery school by the name of "Puja Kids Care" in the same locality. Mobile numbers of the Petitioner and the daughter have also been placed on record. I find no force in the submission of Counsel for the Petitioner that the school is being run by the sister of the Petitioner, as no document in support of this submission has been placed on record, which would easily have been filed in case the school was being run by her sister.

5. Accordingly, I find no infirmity in the order of learned trial Court. No grounds to interfere in the impugned order, under Article 227 of the Constitution of India, are made out. Dismissed.

CM. No. 2551/2009 (STAY)

6. In view of the order passed in the petition, application stands disposed of.