
(2009) 12 AHC CK 0242
In the Allahabad High Court

Saroj Tiwari

APPELLANT

Vs

Addl. District Judge, Sultanpur & Another

RESPONDENT

Date of Decision : 23-12-2009

Acts Referred:

Citation : (2009) 12 AHC CK 0242

Hon'ble Judges : Ved Pal, J

Final Decision : Allowed

Judgement

Vedpal, J.—The defendant Smt. Saroj Tiwari(revisionist herein) has filed this civil revision against the order dated 15.11.2008 passed by the Additional District Judge, Sultanpur in Original Suit No. 180 of 2006 (Rajkumar Vs. Smt. Saroj) under Section 13 of the Hindu Marriage Act, on application 13C moved by her under the provisions of Section 24 of the Hindu Marriage Act claiming maintenance pendente lite and expenses of the proceeding initiated against her by her husband Shri Raj Kumar Tiwari (opposite party no.2 herein). At the admission stage of this revision, Shri Raj Kumar Tiwari (opposite party no.2 herein) appeared and filed his counter affidavit objecting admission of this revision.

2. I have heard the learned counsel for the parties, on the admission of this revision as considerable length and perused the record of the case.

3. It reveals from the perusal of the record that opposite party no.2, Raj Kumar Tiwari had filed a suit against her wife for divorce. During the pendency of the said suit Smt. Saroj Tiwari, wife of Shri Raj Kumar Tiwari moved an application 13C along with affidavit 14C under Section 24 of the Hindu Marriage Act claiming maintenance pendente lite and expenses of the proceeding initiated by her husband against her on the ground that Shri Raj Kumar Tiwari is a teacher in Government Department and his salary is about 12,000/ per month and she is not in a position to maintain herself and it is, therefore, essential that an amount of Rs.6,000/be awarded to him as an interim maintenance per month alongwith Rs.5,000/ as expenses of the proceeding. The opposite party no. 2 i.e. Raj

Kumar Tiwari filed his objection 17C along with affidavit 26C against the said application and also moved an application claiming maintenance pendente lite and expenses of the proceeding from his wife Smt. Saroj Tiwari. Applications claiming pendente lite maintenance and expenses of proceeding moved by the parties were rejected by the court below. Feeling aggrieved with the order of the rejection passed on her application 13C Smt. Saroj Tiwari has filed this petition.

4. It is submitted by the learned counsel for the petitioner that the revisionist had specifically stated that Raj Kumar Tiwari has an income of Rs.12,000/ per month and this fact was not controverted by him and even then Saroj Tiwari was deprived from her claim for maintenance pendente lite and expenses of the proceeding while she is unable to maintain herself. It was further submitted that it is wrong to alleged that she has any independent income and thus the order passed by the learned court below is perverse and illegal and was also passed without proper consideration of the material on record, therefore it is necessary that the revision be admitted for hearing on merit. It reveals from the perusal of the record that opposite party no.2, Raj Kumar Tiwari has not challenged the impugned order by which his application 27C for maintenance pendente lite and expenses of the proceeding was rejected.

5. In the facts and circumstances of the case, the revision cannot be dismissed in limine and it is necessary to decide the matter on merit and demerit after seeing the record. The revision is therefore admitted for hearing on merit. The record of the learned lower court be summoned within fifteen days. List immediately thereafter for hearing.

6. As an interim measure, the proceeding pending before the court below under Section 13 of the Hindu Marriage Act shall remain stayed till the next date of listing.