
(2012) 03 DEL CK 0593
In the Delhi High Court
Case No : CM (M) 1151 of 2011

Sarvesh Saharawat

APPELLANT

Vs

Poonam Tarawati

RESPONDENT

Date of Decision : 22-03-2012

Acts Referred:

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

Citation : (2012) 03 DEL CK 0593

Hon'ble Judges : Veena Birbal, J

Bench : Single Bench

Advocate : Beenashaw N. Soni, for the Appellant; Sanjay Singhal, for the Respondent

Judgement

Veena Birbal, J.—Affidavits as directed vide order dated 30.09.2011 have not been filed by both the parties. A very short point is involved in the present case.

2. A divorce petition has been filed by the respondent/wife against the petitioner/husband before the learned trial court which is pending adjudication. On 22.11.2010, the respondent/wife had made a grievance before the learned trial court that she alone is bringing up the child and husband is not contributing even towards the educational expenses of the child. She had further stated that she had paid the educational expenses of the child for 3 quarters and a sum of Rs. 35,000/- has been paid by her. As the application u/s 24 of Hindu Marriage Act (hereinafter referred to as "the Act") was pending disposal, on the hardship being faced by respondent/wife, court passed the impugned order dated 22.11.2010 wherein the direction was issued to petitioner/husband to deposit the school fee and other expenses of the child from the said date i.e. 22.11.2010 till the disposal of application u/s 24 of the Act. The relevant portion of the said order is as under:-

... Mother has paid the educational expenses of the child for 3 quarters and a sum of Rs. 35,000/- has been paid on the part of the petitioner. It is trite that

bearing of educational expenses and other expenses of the child is the responsibility of the father and the mother. Since mother in this case has exceeded her liabilities by paying the school fees of three quarters. I deem to deposit the school fees and other expenses of the child Baby Ridhima Sherawat of Sanskar Nursery School, Pocket-1, Sector 24, Rohini, Delhi-110085 from today onwards till the disposal of the application u/s 24 of the HMA.

3. During arguments, it has been informed that the application u/s 24 of the Act has already been disposed of by the learned trial court by a separate order. Vide impugned order dated 22.11.2010, the court had only issued directions for bearing the school expenses of the child considering the fact that in the past wife alone had been bearing the same. These are the expenses only for a few months.

4. Considering the totality of facts and circumstances, I do not find any illegality or infirmity in the impugned order which calls for interference of this court in exercise of its jurisdiction under Article 227 of the Constitution of India.

It is clarified that the impugned order as well as this order shall have no bearing in case petitioner chooses to challenge the order u/s 24 of the Act.

The petition stands disposed of accordingly.

CM No. 18414/2011 (stay)

In view of the order on the main petition, no further orders are required on the present application. The same stands disposed of.