

(2012) 09 SHI CK 0082
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 194 of 2012

Shri Jai Prakash Gupta

APPELLANT

Vs

Smt. Manorma Gupta

RESPONDENT

Date of Decision : 13-09-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Evidence Act, 1872 — Section 45, 73
Hindu Marriage Act, 1955 — Section 24

Citation : (2012) 09 SHI CK 0082

Hon'ble Judges : Dev Darshan Sood, J

Bench : Single Bench

Advocate : R.L. Chaudhary, for the Appellant; D.S. Nainta, for the Respondent

Final Decision : Dismissed

Judgement

Dev Darshan Sud, J.—The petitioner, who is the husband, has challenged the order passed by the learned District Judge, Kinnaur at Rampur granting maintenance of Rs. 12,000/- per month to the respondent who is the wife of the appellant. The respondent had instituted an application u/s 24 of the Hindu Marriage Act claiming maintenance pendente lite. This application was filed on the allegation that she is unable to maintain herself, the petitioner herein, who is her husband, is drawing Rs. 35,000/- per month as pension and has been granted Rs. 60 lacs as allowances etc. These pleadings were denied by the petitioner-husband including the fact that he had landed property or immovable property. The application was considered by the learned District Judge, who allowed the petition and granted Rs. 12,000/- per month as maintenance pendente lite and Rs. 10,000/- for litigation expenses.

2. The petitioner has now challenged this order on a number of grounds inter alia that he was paying Rs. 10,000/- per month to his driver, Rs. 3000/- per month to his cook and another Rs. 1500/- per month to the lady who looks after his household work. It is also pleaded that income of the respondent-wife is more

than Rs. 25,000/- per month from the landed property including an orchard, he had deposited Rs. 60,000/- in the name of his daughter who was studying for the MBA degree.

3. First of all, the petitioner submits that there is a dispute with respect to the paternity of his son Sidharth who born on 12.3.1988, an application u/s 151 of the CPC read with Sections 45 and 73 of the Indian Evidence Act has been filed for DNA matching. Since the petitioner is blind he seeks exemption from payment of any maintenance whatsoever. A number of points have been urged by the Learned Counsel appearing for the petitioner in support of the contention that the respondent is not entitled to any maintenance.

4. At the outset, I may observe that it is unfortunate that the petitioner, who is a retired Chief Engineer, aged about 60 years and who has now been struck blind because of disease, is involved in a matrimonial dispute with the respondent which is confined not only to the compatibility, but allegation of bastardy against his son. At this age when both the petitioner and the respondent should be supporting each other and looking, tending, providing solace and comfort to each other after the family, which consists of two daughters and a son, have chosen to indulge in a slugfest leveling allegations and counter allegations against each other.

5. Be that as it may, turning to the allegations in this petition, I do not find that the learned trial Court has erred in granting the maintenance as pleaded. The learned trial Court, held on the letter placed on record which was issued by the Accounts Officer (Pension) F&A Wing of HPSEB showing that the pension payable to the petitioner was Rs. 37,696/-. At the time of his retirement he has been paid Rs. 40,88,606/-. In these circumstances, maintenance of Rs. 12,000/- per month in addition to Rs. 10,000/- as litigation expenses has been granted to the respondent. On the submissions made by the Learned Counsel for the petitioner, I do not find any merit as even before the learned trial Court the allegations are not supported by any material on the record. It was for the petitioner herein to have brought material on the record and proved in accordance with law before the trial Court to establish his contention as raised therein. In these circumstances, I do not find any merit in this petition, which is dismissed. It will be open to the petitioner herein to approach the learned trial Court for modification of the order on any other fresh circumstance that may be brought on the record. This equally applies to the respondent who can also move the trial Court for modification of the order should the need so arise.