

(2019) 09 RAJ CK 0207

In the Rajasthan High Court

Case No : Civil Miscellaneous Appeal No. 2599 Of 2019

Trilok Gehlot

APPELLANT

Vs

Baby @ Bhagwati Gehlot

RESPONDENT

Date of Decision : 24-09-2019

Acts Referred:

Hindu Marriage Act, 1955 — Section 13, 24

Citation : (2019) 09 RAJ CK 0207

Hon'ble Judges : Sangeet Lodha, J; Vinit Kumar Mathur, J

Bench : Division Bench

Advocate : Muktesh Maheshwari, Aidan Choudhary

Final Decision : Dismissed

Judgement

1. This appeal is filed by the appellant assailing the legality of the order dated 21.8.19 passed by the Family Court No.1, Bikaner in Civil Original Case No.73/18, whereby an application preferred by the respondent under Section 24 of the Hindu Marriage Act, 1955 (for short "the Act of 1955") has been allowed. The appellant has been directed to pay maintenance pendente lite a sum of Rs.15,000/- per month to the respondent.

2. The appellant filed a petition against the respondent seeking divorce under the provisions of Section 13 of the Act of 1955. During the pendency of the petition, the respondent filed an application under Section 24 of the Act of 1955, claiming maintenance pendente lite from the appellant a sum of Rs.1 lac per month. The respondent averred in the application that she has no source of income, whereas the appellant is running a Coaching Institute and earning Rs.50 lacs per annum. That apart, he is earning a sum of Rs.10 lacs by operating 'Krishna Library' and Rs.5 lacs by sale of firecrackers on the occasion of Deepawali.

3. The appellant denied that he is operating coaching institute 'Krishna Classes' and 'Krishna Library' as alleged. In the reply filed, the appellant's stand was that he has no source of income whatsoever.

4. The respondent produced on record the advertisement issued by 'Krishna Classes' and 'Krishna Library', showing that the appellant is Director of the institute. The appellant did not produce any documents in rebuttal. In this view of the matter, after due consideration of the material on record, the Family Court determined the maintenance pendente lite payable to the respondent as Rs.15,000/- per month. However, for the period from 6.8.18 to 31.7.19, the amount of maintenance payable was determined at Rs.1 lac in lump sum and the appellant has been directed to pay the maintenance a sum of Rs.15,000/- w.e.f. 1.8.19.

5. Learned counsel appearing for the appellant contended that the Family Court has seriously erred in determining the amount of maintenance payable at Rs.15,000/- per month without there being any evidence on record showing that the appellant is earning monthly income as alleged by the respondent. Learned counsel submitted that on the basis of the advertisement and photographs, the inference drawn by the Family Court regarding the income of the appellant is ex facie perverse.

6. We have considered the submissions of the learned counsel and perused the material on record.

7. Indisputably, the purpose behind Section 24 of the Act of 1955 is to provide necessary financial assistance to the party to the matrimonial dispute who has no independent income of his own sufficient for her or his support or to bear the expenses of the proceedings. While considering the application for award of interim maintenance, the relevant consideration is the inability of the spouse to maintain himself or herself for want of independent income or inadequacy of the income to maintain at the level of social status of other spouse.

8. No hard and fast rule can be laid down for determination of the amount of interim maintenance. It is pertinent to note that the respondent had produced on record the advertisement and the photographs showing that the appellant is the person operating the coaching institute as also the library. It was not the case set out by the appellant before the Family Court that the advertisement and photographs produced on record mentioning his name as Director, do not relate to him. No evidence whatsoever was produced by the appellant to rebut the stand taken by the respondent or to establish that the respondent has her own source of income.

9. In the considered opinion of this Court, on the basis of the material on record, it can be safely concluded that if not Rs.1 lac per month, undoubtedly the appellant must be earning a reasonable income. Thus, in absence of any evidence regarding the respondent having any adequate source of income, the amount of maintenance pendente lite determined by the Family Court appears to be just and proper and does not warrant any interference by us in exercise of appellate jurisdiction.

10. The appeal is therefore, dismissed.