

LAKHPATI V/S RAJESH

Present: Mr. Amit Prashar, Advocate, for the appellant.

Mr. Munfaid Khan, Advocate, for
Mr. Amit Kumar Jain, Advocate, for the respondent.

Counsel for the respondent-husband submits that the respondent-husband is not in contact with him since long.

The application under Section 24 of the Hindu Marriage Act has been taken up for hearing as the same has been pending since 2009.

The appellant-wife claims that she has got no source of income being a *parda nashin* lady whereas the respondent-husband is employed with Bank of India besides having agricultural income and a house in village as well as in city. His earning in the year 2009 is stated to be was Rs.10,000/- per month and income from agricultural land was Rs.7000/- per month. The appellant-wife claimed maintenance pendente lite at the rate of Rs.5000/- per month for herself and Rs.3000/- for her minor son besides claiming Rs.15,000/- as litigation expenses.

In the reply filed by the respondent-husband, it has been stated that his income from salary as Peon in Bank of India is Rs.6828/- only. Other avements have been denied.

Another miscellaneous application was filed by the appellant-wife in the year 2017 placing on record additional affidavit of the appellant-wife in which salary of the respondent-husband in the month of August, 2016 has been mentioned as Rs.25,114/- per month.

We have considered the facts and circumstances of the case and are of the opinion that the appellant-wife is entitled to maintenance pendente

lite with effect from the date of application commensurate with the income of the respondent-husband with effect from 2009.

No material has been placed before this Court to arrive at a conclusion that the appellant herself is capable of earning or has any source of income. She is shouldering the responsibility of looking after the minor child.

It has been informed that the appellant-wife and her son had been granted maintenance pendente lite to the tune of Rs.1500/- and Rs.1000/- per month respectively which was later on enhanced to Rs.8000/- per month.

Taking into consideration the income of the respondent-husband, we are of the opinion that he is liable to pay maintenance pendente lite from February, 2009 to December, 2015 at the rate of Rs.5000/- per month and with effect from January, 2016, a sum of Rs.12,000/- per month along with litigation expenses of Rs.30,000/-. It is made clear that any amount paid towards the maintenance in proceedings under Section 125 Cr.P.C. would be deductible from the amount awarded.

Application under Section 24 of the Hindu Marriage Act is allowed in above terms.

For payment of the arrears of maintenance and litigation expenses, adjourned to 19.11.2018.

It is made clear that in case the arrears are not cleared, adverse legal consequences would follow against the respondent-husband.

The miscellaneous application (CM-4542-CII-2017) will be heard with the main case.

(M.M.S. BEDI)
JUDGE

August 09, 2018
harsha

(ANUPINDER SINGH GREWAL)
JUDGE