

**CMM-4-2016 and
FAO-M-405-2015**

DILBAG SINGH
VS.
HARBHAJAN KAUR

Present: None for the appellant.

Mr. Chanan Singh, Advocate
for the respondent.

This application will dispose of an application under Section 24 of the Hindu Marriage Act filed by respondent-wife.

The husband had filed a petition under Section 13 of the Hindu Marriage Act which was dismissed by the Additional District Judge, Jalandhar.

Aggrieved by the said decree, the husband has preferred this appeal.

In the application filed under Section 24 of the Hindu Marriage Act, the applicant-wife has submitted that she has got no source of income, whereas the respondent was serving in Punjab Police, he left India and settled in United States and started his business of eating joint, earned handsome income and later on, returned to India, where he developed relations with one Joginder Kaur. Regarding the family, it is averred in the application that out of the wedlock, three sons and two daughters were born who are grown-up and settled independently in their lives. The non-applicant/husband has not paid any maintenance till date. She claims sum of ₹20,000/- per month as maintenance *pendente lite* to enable her to maintain herself.

The application has been opposed admitting that the non-applicant had left India and had run business of eating joint in USA.

In order to evade the liability of maintenance, it has been mentioned that self-acquired land measuring 17 kanals, 4 marlas worth ₹25 lakh and another plot of 42 marlas worth ₹1 crore in village Laroi near Bhogpur was transferred to the applicant and that she had left with her sons for USA.

The applicant has filed rejoinder and denied transfer of any property to her. No document has been placed on record by any of the parties indicating any transfer of property to the applicant in lieu of amount of maintenance. The non-applicant has not denied that he is a pensioner from Punjab Police. The marriage of the parties had taken place in the year 1972. Counsel for the applicant has submitted that the husband has been convicted for the accusation of bigamy.

Without expression of any opinion regarding any matrimonial bond of the non-applicant/husband, we are of the considered opinion that the applicant is not established to be an earning hand. It is not the case of the husband that she is capable of earning independently or that she has got any source of income. Though her address of USA is mentioned in the petition for divorce but it is admitted fact that both the parties are at present residing in India. The non-applicant/husband is an able-bodied person with good earning capacity besides being a pensioner. He cannot evade his liability to pay maintenance *pendente lite* to his wife which is a statutory right of the wife, especially when the wife is not established to be earning. We are satisfied that the applicant-wife is entitled to be maintained during pendency of the appeal.

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

It is ordered that a sum of ₹15,000/- will be paid by the appellant-husband to the applicant-wife during pendency of the appeal besides litigation expenses of ₹30,000/-.

Sum of ₹20,000/- earlier paid will be deductible from the amount of litigation expenses

The maintenance *pendente lite* will be payable from the date of the application i.e. December, 2015.

For payment of the arrears of maintenance *pendente lite* and litigation expenses, adjourned to 15.12.2017.

Entire arrears calculated till 31.01.2018 will be paid on next date of hearing.

(M.M.S. BEDI)
JUDGE

November 24th, 2017
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE