

(1995) 01 P&H CK 0012

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 356 of 1993 and Civil Miscellaneous No's. 16-M, 3977 and 4148 of 1993 (O and M)

Mohan Lal Sharma

APPELLANT

Vs

Parveen Sharma

RESPONDENT

Date of Decision: Jan. 12, 1995

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115
- Hindu Marriage Act, 1955 - Section 11, 24

Citation: (1995) 110 PLR 706

Hon'ble Judges: V.K. Jhanji, J

Bench: Single Bench

Advocate: Ashok Devgan, for the Appellant; D.S. Pheruman, for the Respondent

Judgement

V.K. Jhanji, J.

1.This revision petition is directed against the order of the Additional District Judge, Amritsar, whereby wife was held entitled to maintenance pendente lite and litigation expenses on an application u/s 24 of the Hindu Marriage Act.

2. In brief, the facts are that the petitioner who is employed in the State Bank of India, filed a petition against the respondent u/s 11 of the Hindu Marriage Act (hereinafter referred to as the Act) for the annulment of the marriage on the ground that she is not his legally wedded wife as the previous marriage between the respondent and one Naresh Kumar has not been dissolved by a competent Court. Respondent, on appearance, filed an application u/s 24 of the Act for maintenance pendente lite and litigation expenses. The Additional District Judge, Amritsar, considering that the carry-home salary of the petitioner is Rs. 82,500/- per year, allowed maintenance pendente lite to the extent of Rs. 1,500/- per month and litigation expenses of Rs. 2,000/-. This order is being impugned herein this revision petition by the husband.

3. Counsel for the petitioner is not impugning the order on the ground that maintenance pendente lite or litigation expenses granted to the respondent is excessive. His only contention is that before the respondent is held entitled to maintenance pendente lite and litigation expenses, the respondent is required to establish that she is the legally wedded wife and her previous marriage was dissolved in accordance with law. In support of his contention, the counsel referred to a judgment of the Supreme Court in [Yamunabai Anantrao Adhav Vs. Anantrao Shivram Adhav and Another](#), . I am afraid to accept this contention for the reason that Section 24 of the Act merely provides for summary relief which may be granted to either party who has no independent source of income for his or her support, to claim maintenance pendente lite during the pendency of litigation. It also prescribes that necessary expenses of that litigation may be claimed by the petitioner from the opposite party. The dispute with regard to validity or legality of the marriage is not to be gone into in such a petition and it is a matter which is to be considered in the main petition. For the purposes of application u/s 24 of the Act, the Court is only called upon to make summary consideration of the amount which the applicant is to be awarded by way of maintenance pendente lite and for expenses of litigation. These amounts, if any, are to be fixed according to the financial resources which may appear reasonable to the Court. The very argument now raised before me and the judgment in Yamunabai Anantrao Adhav's case (supra) were considered by this Court in [Jit Singh Vs. Jasbir Kaur](#), and it was held as under:-

"There is, thus, no manner of doubt that even in proceedings u/s 11, seeking a decree declaring the marriage to be nullity is also a proceeding under the Act, to which Section 24 applies. The analogy of the decision of the Supreme Court in Bakulabai's case (supra) 1988(1) RC.R. 304 is not applicable. The provisions of Section 125 of the Code of Criminal Procedure, on the one hand, and Section 24 of the Act, on the other hand, are not in pari materia with each other."

Thus, I am of the considered view that Section 24 of the Act, covers within its scope any proceedings under the Act. It does not exclude proceedings u/s 11 of the Act.

4. Consequently, the revision petition is dismissed with costs, which are quantified at Rs. 2000/-. The amount of maintenance pendente lite and litigation expenses which was deposited in this Court in pursuance of order dated 28.1.1993 shall be paid to the respondent. This amount shall be taken into consideration while determining the arrears of maintenance pendente lite.

5. C.M.s. No. 3977-93, 4148-93 and 16-M of 1993 also stand disposed of.