
(1999) 08 P&H CK 0029

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1119 of 1999

Sunil Kumar Saroni

APPELLANT

Vs

Uma Rani

RESPONDENT

Date of Decision: Aug. 31, 1999

Acts Referred:

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

Citation: (1999) 123 PLR 678 : (2000) 1 RCR(Civil) 259

Hon'ble Judges: Amar Dutt, J

Bench: Single Bench

Advocate: S.S. Dinarpur, for the Appellant; Bhag Singh, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Amar Dutt, J.

This revision petition seeks to challenge the order dated 6.2.1999 passed by the Additional District Judge, Ambala, on an application filed u/s 24 of the Hindu Marriage Act (for short the "Act") by the respondent-wife in the petition filed by Sunil Kumar u/s 13 of the Act for the grant of decree of divorce.

2. The marriage between the parties was solemnised on 25.6.1987 and three children were born from the wedlock who are admittedly living with the wife at her paternal village in Walidpur, District Merut (UP.). The respondent-wife had moved an application u/s 24 of the Act asserting that she had no source of income and her husband is working in the Indian Railways as a Hindi Assistant at Ambala Cantt. and is drawing a salary of Rs. 9,000/- p.m. He has 40 bighas of land in village Miranpur in District Muzaffarnagar from which he gets Rs. 60,000/- p.a. These allegations were denied by the husband. According to him, the wife had done her Masters in two

subjects and was earning Rs. 4,000/-p.m. from the tuition work and Rs. 2,000/- from Handicrafts. According to the husband, he was drawing only a salary of Rs. 5,000/- and he produced the salary certificate showing that total emoluments payable to him were Rs. 7,367/- p.m. and his carry home salary was Rs. 5,000/- p.m. The Additional District Judge after hearing arguments took into consideration a note in the salary slip indicating that the petitioner had after the filing of the petition withdrawn a sum of Rs. 32,000/- as loan and for the recovery of which an instalment of Rs. 1,000/-p.m. was being paid by him for coming to the conclusion that the amount of Rs. 3,000/- p.m. should be paid by him to the wife and the children for their maintenance and fixed an amount of Rs. 3,300/- as litigation expenses. Aggrieved by this order, Sunil Kumar has filed the present petition.

3. I have heard learned counsel for the parties and have carefully considered the respective submissions made by them.

4. The petitioner in the present case is seeking a reduction in the amount of maintenance pendente lite which has been awarded to the wife on the assertion that his carry home salary is only Rs. 4,600/- p.m. while this submission is factually correct but one cannot lose sight of the fact that the petitioner had taken a loan of Rs. 32,000/- after the filing of the petition, and for the repayment of which he is now paying back an amount of Rs. 1,000/- p.m. therefore, the deduction on account of the amount of Rs. 1,000/- as well as the amount of Rs. 1,350/- which he is paying towards repayment of house loan taken by him cannot be taken into consideration while working out the amount of maintenance pendente lite which would be paid to the respondent and her children because the petitioner has already received lump sum amounts which he is seeking to repay in instalments. In these circumstances, taking into consideration the fact that the wife is not only maintaining herself but three children who are admittedly being brought up by her, I am of the view that the amount of maintenance pendente-lite which has been fixed by the Court below cannot be held to be disproportionate to the income of the petitioner so as to warrant interference by this Court. This revision is consequently without any merit and is accordingly dismissed.