

(2010) 08 P&H CK 0410

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Kuldeep Singh

APPELLANT

Vs

Raj Bala

RESPONDENT

Date of Decision: Aug. 3, 2010

Acts Referred:

- Constitution of India, 1950 - Article 227
- Hindu Marriage Act, 1955 - Section 24

Hon'ble Judges: L.N. Mittal, J

Bench: Single Bench

Final Decision: Allowed

Judgement

L.N. Mittal, J.

Kuldeep Singh has filed the instant revision petition under Article 227 of the Constitution of India impugning order dated 21.7.2010 passed by learned Additional District Judge, Rohtak to the extent striking off the defence of the petitioner on account of non-payment of maintenance pendente lite from 11.9.2008 onwards.

2. Respondent-wife Raj Bala has filed divorce petition against petitioner-husband. In the said petition, the husband was directed to pay maintenance pendente lite and litigation expenses vide order dated 2.5.2005 passed on application moved by the wife u/s 24 of the Hindu Marriage Act. The husband paid maintenance pendente lite till before 11.9.2008 and has not paid any amount after 11.9.2008. The wife moved application for striking off the defence of the husband for non payment of the maintenance pendente lite. The said application has been allowed by the trial court vide impugned order dated 21.7.2010 which is under challenge in the instant revision petition. Some other applications moved by petitioner-husband were also disposed of by the same order but those are not relevant for the purpose of this revision petition.

3. The husband alleged that the wife had performed second marriage with one Balwan Singh during the pendency of the divorce petition and she was also pregnant from loins of Balwan Singh and consequently, the husband is not liable to pay maintenance pendente lite to the wife after her re-marriage with Balwan Singh.

4. I have heard learned Counsel for the petitioner and perused the case file.

5. In the trial court even during the course of arguments, counsel for the husband stated that the husband was not willing to pay arrears of maintenance pendente lite. Consequently, the trial court was left with no option but to strike off the defence of the husband-petitioner on account of non payment of maintenance pendente lite because order dated 2.5.2005 directing the husband to pay maintenance pendente lite still subsists and has not been set aside.

6. Learned Counsel for the petitioner, however, now states that the petitioner/husband is ready and willing to pay all the arrears of maintenance pendente lite to the respondent/wife.

7. In view of this statement, the instant revision petition can be disposed of without issuing notice to the respondent-wife so as to avoid delay in disposal of the divorce petition and also to save expenses she may have to incur in engaging counsel in revision petition if notice is issued to her. However, petitioner has to be subjected to some costs for his default in not paying maintenance pendente lite.

8. For the reasons aforesaid, the instant revision petition is allowed and the impugned order dated 21.7.2010 passed by the trial court is set aside to the extent of striking off the defence of the petitioner/husband subject to the condition precedent that the petitioner/husband shall within 15 days from today pay to the respondent/wife in the trial court entire arrears of maintenance pendente lite alongwith cost of Rs 2000/- and shall continue to pay the maintenance pendente lite till the final disposal of the divorce petition.

9. Copy of order be given Dasti on payment of usual charges.