

Beenam Baliyan Vs Prabhat Kumar

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Oct. 11, 2013

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

Bench: Single Bench

Advocate: Arun Gupta, for Mr. Pankaj Bali, for the Appellant; Prabhjot Kaur, Advocate As Legal Aid Counsel, for the Respondent

Final Decision: Allowed

Judgement

L.N. Mittal, J.

Wife Beenam Baliyan has approached this Court by way of instant revision petition filed under Article 227 of the

Constitution of India assailing order dated 23.5.2013 (Annexure P/5) passed by the matrimonial court thereby allowing application Annexure P/3

filed by respondent-husband Prabhat Kumar u/s 24 of the Hindu Marriage Act, 1955 (in short, the Act) and thereby directing petitioner-wife, who

has filed divorce petition u/s 13 of the Act against the respondent-husband, to pay Rs. 5000/- per month as maintenance pendente lite and Rs.

5500/- as litigation expenses to the respondent. I have heard counsel for the parties and perused the case file.

2. Counsel for the petitioner contended that the respondent-husband is able bodied person and therefore, it cannot be said that he is unable to

maintain himself and consequently, he is not entitled to maintenance pendente lite and litigation expenses from the petitioner-wife.

3. On the other hand, counsel for respondent contended that the respondent who was in private job has lost his job due to litigation and now being

unemployed he is unable to maintain himself and therefore, his application u/s 24 of the Act has been rightly allowed by the matrimonial court.

4. I have carefully considered the matter. It is undisputed that the respondent is able bodied person. Consequently, it cannot be said that he is

unable to maintain himself. He was earlier in a private job and was maintaining himself. There is no material on record to depict that he lost his job

due to litigation. There is nothing on record to depict as to why he is no longer in the said job except bare averment of the respondent himself that

he lost the job due to litigation. Moreover, even if the respondent works as casual unskilled labourer, he can earn enough to make his both ends

meet and to maintain himself. It is correct that the petitioner-wife is Research Fellow in National Dairy Research Institute and is getting Rs.

17,600/- per month as stipend. However, it cannot be said that the respondent is unable to maintain himself. Consequently, the respondent is not

entitled to seek maintenance pendente lite from the petitioner wife.

5. For the aforesaid reasons, I find that impugned order passed by the matrimonial court directing the petitioner-wife to pay maintenance pendente

lite and litigation expenses to the respondent-husband is illegal and suffers from jurisdictional error. Resultantly, the instant revision petition is

allowed. Impugned order Annexure P/5 passed by the matrimonial court is set aside and application Annexure P/3 filed by the respondent-

husband stands dismissed.