

(2012) 11 P&H CK 0159

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1371 of 2012

Sukhminder Singh @
Sukhwinder Singh

APPELLANT

Vs

Pavneet Kaur Alias Jaswinder
Kaur

RESPONDENT

Date of Decision: Nov. 23, 2012

Acts Referred:

- Constitution of India, 1950 - Article 227
- Hindu Marriage Act, 1955 - Section 24, 9

Citation: (2013) 169 PLR 519

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

Bench: Single Bench

Advocate: Yowan Sharma, for the Appellant; Birinder Singh, for the Respondent

Judgement

L.N. Mittal, J.

Husband Sukhminder Singh alias Sukhwinder Singh has filed this revision petition under Article 227 of the Constitution of India assailing order dated 31.1.2012 Annexure P/1 passed by the trial court thereby directing the petitioner/husband to pay Rs. 10,000/- per month as maintenance pendente lite and Rs. 15,000/- as litigation expenses to respondent/wife Pavneet Kaur alias Jaswinder Kaur, pursuant to her application filed u/s 24 of the Hindu Marriage Act, 1955 (in short, the Act). Wife has filed petition u/s 9 of the Act against the husband seeking decree for restitution of conjugal rights. During the pendency of the said petition, wife filed application u/s 24 of the Act claiming maintenance pendente lite and litigation expenses alleging that she has no source of income whereas the husband as Range Officer has salary of Rs. 65,000/- per month. He is also earning Rs. 15,000/- per month by maintaining 14 buffaloes and Rs. 25,000/- per month from agricultural land.

2. The husband admitted that he is employed as Range Officer but stated that his net carry home salary is Rs. 28,844/- per month only and out of it, he spends Rs. 2 lacs per annum on education and other expenses of the two children born out of the marriage. The husband denied having any buffaloes or agricultural land.

3. Learned trial court by order Annexure P/1 directed the husband to pay maintenance pendente lite and litigation expenses to the wife as mentioned hereinbefore. Feeling aggrieved, the husband has filed the instant revision petition.

4. I have heard learned counsel for the parties and perused the case file.

5. Counsel for the petitioner vehemently, emphatically and repeatedly contended that the petitioner-husband having net salary of Rs. 28,844/- per month only is spending Rs. 3 lacs on the expenses of the two children who have been admitted in Durga Public School, Solan and therefore, the amount of maintenance pendente lite fixed by the trial court is excessive. Reference was made to salary slip of the husband for June, 2011 and receipts of deposit of school expenses of the children.

6. On the other hand, counsel for respondent-wife contended that the petitioner-husband in addition to his salary income also has agricultural land as per copy of jamabandi for the year 2007-08.

7. I have carefully considered the rival contentions.

8. As regards salary of the husband, according to salary slip for June, 2011 shown by the counsel, his gross salary for June, 2011 was Rs. 30,904/- out of which he deposited Rs. 2000/- per month in GPF and Rs. 60/- per month in GIS which is nothing but accrual of deposits in favour of the husband himself. Moreover, after June, 2011, three installments of dearness allowance since 1.7.2011, 1.1.2012 and 1.7.2012 have also been awarded and the husband also must have earned atleast one annual increment. Thus, his present salary can be taken to be at least Rs. 38,000/- per month.

9. In addition to the aforesaid, as per copy of jamabandi shown by counsel for the wife, the husband also has 1/6th share in 52 kanals 2 marlas land. His share comes to a little more than 81/2 kanals i.e. a little over one acre. His agricultural income, even if the land is leased out, would be more than Rs. 2000/- per month i.e. Rs. 24,000/- per annum.

10. The husband wrongly pleaded in his reply that he has no agricultural land.

11. Contention of counsel for the husband that he is spending Rs. 3 lacs per annum on the expenses of his children cannot be accepted in to. The husband, alleging his income to be Rs. 28,844/- per month only, could not be expected to spend Rs. 25,000/- per month on his children alone. If he is doing so, he is living beyond his means at his own risk and peril. In the garb of the said expenses, he cannot deny reasonable maintenance pendente lite to the respondent-wife. Here it may be

mentioned that according to reply filed in the trial court, the husband was spending Rs. 2 lacs per annum only as expenses of the children as mentioned in the impugned order but now counsel for the husband very vehemently and repeatedly pressed that the husband is spending Rs. 3 lacs per annum. The expenses could not have risen by 50% in a short period. In any case, he has to spend proportionately on the children as per his income. Keeping in view the income of the husband and the reasonable expenses of his children, in my considered opinion, the ends of justice would be met if the amount of maintenance pendente lite awarded by the trial court is reduced to Rs. 7000/- per month with effect from the date of application moved u/s 24 of the Act. This reduction shall be conditional. If the petitioner-husband pays the maintenance pendente lite at the reduced rate regularly and clears the arrears within three months from today, then only he shall be entitled to the reduction in the amount of maintenance pendente lite failing which the husband shall be liable to pay maintenance pendente lite at the rate awarded by the trial court. In addition, the petitioner shall also pay Rs. 15,000/- as litigation expenses to the respondent-wife as awarded by the trial court. Ordered accordingly.

Disposed of accordingly.