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(2003) 03 AHC CK 0080

Allahabad High Court (Lucknow Bench)

Case No: Civil Revision No. 112 of 2003

Umesh Kumar

APPELLANT

Vs

Smt. Kiran Devi

RESPONDENT

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**Date of Decision:** March 6, 2003

**Acts Referred:**

- Hindu Marriage Act, 1955 - Section 24

**Citation:** (2003) 2 AWC 1593 : (2003) 2 DMC 4

**Hon'ble Judges:** N.K. Mehrotra, J

**Bench:** Single Bench

**Advocate:** Ram Lakhan Vishwakarma, for the Appellant;

**Final Decision:** Dismissed

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### Judgement

@JUDGMENTTAG-ORDER

N.K. Mehrotra, J.

This is a revision u/s 115 of the CPC against the order dated 16.11.2002 passed by the Civil Judge (Senior Division), Lakhimpur Kheri in Suit No. 243 of 2001 u/s 24 of Hindu Marriage Act, 1955.

2. I have heard the learned counsel for the revisionist at admission stage.

3. The revisionist has filed a suit u/s 9 of the Hindu Marriage Act for restitution of conjugal rights against his wife-respondent Smt. Kiran Devi. During the pendency of the suit, the respondent has moved an application u/s 24 of the Hindu Marriage Act. This application has been decided by the impugned order. The learned trial court had recorded a finding that the respondent Smt. Kiran Devi has no independent income sufficient for her support and the necessary expenses of the proceedings. After recording this finding, the trial court had awarded Rs. 1,500 in lump sum as litigation expenses and Rs. 400 per month as maintenance allowance from the date of the order. It is against this order, the present revision has been filed.

4. In my opinion, this revision is not maintainable because u/s 24 of the Hindu Marriage Act, there is a specific provision that where in any proceeding, it appears to the Court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceedings, it may order the respondent to pay to the petitioner the expenses of the proceedings and monthly allowance having regard to the petitioner's own income. In the instant case, nothing has been pointed out that the opposite party has any independent income to meet out the litigation expenses and for her maintenance, therefore, it cannot be said that the trial court has exercised the jurisdiction not vested in it by law or has acted in exercise of the jurisdiction illegally or with material irregularity. Therefore, the revision is liable to be dismissed.

5. In result, the revision is dismissed at admission stage.