

(1995) 2 DMC 539

Madhya Pradesh High Court

Case No: C.R. No. 1031 of 1994

Rekhabai

APPELLANT

Vs

Ramlal

RESPONDENT

Date of Decision: July 28, 1995

Acts Referred:

Hindu Marriage Act, 1955 " Section 24

Citation: (1995) 2 DMC 539

Hon'ble Judges: Jayant Govind Chitre, J

Bench: Single Bench

Advocate: S.K. Jain, for the Appellant; Party-in-Person, for the Respondent

Judgement

J.G. Chitre, J.

This revision is decided finally for the purpose of avoiding any obstruction to the hearing of the matrimonial petition which

has been fixed on 11.8.1995.

2. Mr. S.K. Jain pointed that in para 7 of the impugned order, the Court has recorded a finding that opponent Ramlal does the work as labourer

for earning wages. He pointed further that in subsequent para 8, it has been mentioned by the Court that the husband Ramlal does not have

sufficient means to maintain his wife Rekhabai and to pay her pendente life alimony and expenses of litigation.

3. Ramlal, opponent, who argued the matter in person, pointed the order of this Court in the matter of C.R. 32/94 dated 24.2.1994 and submitted

that in view of that order, the present petition needs to be dismissed. He has also moved an application to that effect.

4. When a query was made by the Court to opponent Ramlal for asking him as to how he is spending for typing and other expenses of litigation,

he stated in open Court that he does works as labourer for the purpose of earning some wages and out of that income, he spends for typing the

applications and satisfying the expenses of litigation.

5. The spirit behind enacting Section 24 of Hindu Marriage Act, 1955 is to give solace to a spouse appearing in the Court in matrimonial litigation.

There is nothing on record to show that Rekha has source of income enabling her to maintain herself during pendency of said matrimonial petition

as well as to meet expenses of litigation.

6. While deciding the prayer made by spouses for getting pendente lite alimony amount for meeting out the expenses of litigation, no enquiry has to

be made about the merit of contention of rival spouses. The enquiry is restricted only to ascertain whether the spouse making a prayer for pendente

lite alimony and expenses of litigation has the source of income to maintain himself or herself during pendency of litigation. The enquiry is also

restricted to the point whether such spouse is having sufficient source of income to enable him or her to meet out expenses of the said litigation. In

this case Rekhabai, applicant does not have source of income. However, opponent Ramlal has source of income, sufficient to maintain himself and

meet the expenditure of litigation which he is fighting on his own. Therefore, Rekhabai, applicant is entitled to get pendente lite alimony as well as

some amount to meet out the expenditure of said litigation. However, the golden mean will have to be achieved by keeping in view the income

which Ramlal is having and the amount which Rekha may need for the purpose of maintaining herself during pendency of said litigation as well as

meeting expenses of said litigation.

7. Thus, in view of the circumstances of the matter, I hereby direct that Ramlal should pay Rs. 100/- (one hundred) as pendente lite alimony to

Rekhabai-applicant from the date of her application for pendente lite alimony. So also he should pay Rs. 200/- (two hundred) as expenses of

litigation to Rekhabai.

8. The Matrimonial Court is hereby directed to expedite the hearing of the matrimonial petition which has been fixed for hearing on 11.8.1995

C.C. to applicant as well as opponent.