

**Hemalata Vs. Mohan**

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**Court :** Karnataka Dharwad

**Decided On :** Jan-08-2015

**Judge :** A.N. Venugopala Gowda

**Appeal No. :** Writ Petition No. 81417 of 2013 [GM-FC]

**Appellant :** Hemalata

**Respondent :** Mohan

**Judgement :**

(Prayer: This Writ Petition Is Filed Under Articles 226 and 227 Of Constitution Of India Praying This Hon'ble Court To Modify The Impugned Order Dated: 17/07/2013, Passed By The Family Court Judge At Dharwad, On I.A.No.1 In M.Cno. 19/2013 (Annexure-D) And Consequently Be Pleased Enhance The Maintenance Amount From Rs. 15,000/- To Rs.50,000/- Per Month, Payable To Enhance The Litigation Expenses Form Rs.25,000/- To Rs.50,000/-.)

1. Marriage of the petitioner and the respondent was solemnised on 30.04.2007 and was registered on 15.11.2007. The petitioner was employed prior to the marriage. After the marriage, she has left the job. On account of incompatibility, the spouses having withdrawn from each other, after issuing of a notice, respondent filed MC No.19/2013, in the Family Court, Dharwad. The petitioner, having entered appearance, filed an application under Section 24 of the Hindu Marriage Act and the same was allowed in part on 17.07.2013, The respondent

was directed to pay pendants lite maintenance of Rs.15,000/- per month from February 2013 and until further orders. Seeking modification of the said order and to enhance the pendente lite maintenance to Rs.50,000/- per month and the litigation expenses from Rs.25,000/- to Rs.50,000/-, this writ petition was filed on 05.08.2013. Since the order passed on I.A. No.1 on 17.07.2013 by the Family Court was not honoured, in that, interim maintenance and litigation expenses as ordered was not paid, MC No.19/2013 was dismissed on 05.11.2013. To set aside the said order and to restore MC No.19/2013, respondent has filed Civil Misc. No.2/2013 in the Family Court, Dharwad and the matter is pending.

2. To execute the order passed on 17.07.2013, petitioner filed E.P. No.11/2013. Indisputedly, the sum payable in terms of the order passed on I.A. No.1, in MC No.19/2013, on 17.07.2013, has been satisfied. The interim maintenance payable in terms of the said order has been paid.

3. The petitioner, having filed CrI.Misc. No.31/2014 against the respondent, under Section 125(1) of Cr.P.C. in the Family Court, Dharwad, an order dated 24.03.2014 was passed on I.A. No.1, directing the respondent to pay pendente lite maintenance allowance of Rs.20,000/- per month. Assailing the said order, respondent has filed CrI. Petition No. 101050/2014 by invoking Section 482 of Cr.P.C. An interim order dated 27.06.2014 was passed staying the impugned order, subject to the petitioner therein i.e., respondent herein, regularly paying interim maintenance of Rs.20,000/- per month, pending disposal of Criminal Petition No.101050/2014.

4. Since, the respondent has paid the interim maintenance in terms of the order dated 17.07.2013 passed on I.A. No.1 filed in MC No.19/2013 and also the order passed on I.A. No.1 filed in CrI Misc. No.31/2014, on the file of the Family Court, Dharwad, Sri. Mallikarjun S.Hiremath learned advocate for the petitioner, rightly submitted that Civil Misc. No.2/2013, pending in Family Court, Dharwad, seeking restoration of M.C. No.19/2013, which was dismissed on 05.11.2013, may be allowed. This submission was made by the learned advocate, to expedite the decision with regard to the divorce sought in MC No.19/2013 and also in view of the submission made by Sri.Shrikant T.Patil, learned advocate for the respondent,

that the interim maintenance amount of Rs.20,000/- p.m. ordered to be paid in Crl. Misc. No.31/2014 would be paid during the pendency of MC No.19/2013 and also Crl.Misc. No.31/2014.

5. In view of the above, this writ petition need not be decided on its merit. Instead, by allowing the Civil Misc. No.2/2013, pending on the file of Family Court, Dharwad, i.e., in exercise of the power under Article 227 of the Constitution, can be allowed and MC No.19/2013 be directed to be decided with expedition, since the petitioner herein undertakes to file the statement of objections to the said petition on or before 31.01.2015.

In view of the foregoing, this petition is disposed of as follows;

The Family Court, Dharwad, is directed to treat Civil Misc. No.2/2013 as having been allowed and consequently, take up for consideration and decision MC No.19/2013. Both parties shall appear in MC No.19/2013 on 31.01.2015.

The petitioner herein shall file her statement of objections to the said petition, on the said date and the said case be decided with expedition and on or before 31.07.2015 Criminal Misc. No.31/2014 be also taken up for consideration and decided simultaneously.

Till MC No.19/2013 is decided, the respondent shall pay to the petitioner, Rs.20,000/- per month as pendente lite maintenance, apart from the payment of litigation expenses ordered on 17.07.2013 in MC No.19/2013, if not already paid.

Both parties shall render co-operation to the Family Court, Dharwad, to decide the matters with expedition and before the said date.

It is made clear that this being only an interim arrangement, the Family Court, Dharwad, while deciding MC No.19/2013, in case there is a need to pass any order regarding permanent alimony, shall determine the permanent alimony based on the evidence that may be adduced by the parties. The arrangement made herein being only interim arrangement, it shall not influence the Court in deciding the permanent alimony payable, if any.

The respondent shall also pay travelling cost of Rs.2,000/-, on all the dates of hearing of the said two cases, to the petitioner, in case, she appears in person i.e., on the hearing dates of the aforesaid cases.

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