

Dhiraj Vs. Naina

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Court : Karnataka Dharwad

Decided On : Jan-06-2015

Judge : A.N. Venugopala Gowda

Appeal No. : Writ Petition No. 84892 of 2013 (GM-FC)

Appellant : Dhiraj

Respondent : Naina

Judgement :

(Prayer: This Petition Is Filed Under Articles 226 And 227 Of The Constitution Of India Praying To Quash The Order Dated 31.10.2013 Passed On I.A.No.II In M.C.No.114/2013 On The File Of The Hon'ble Judge Family Court, Belgaum.)

1. The marriage of the petitioner with the respondent was solemnized on 07.05.2009. On account of incompatibility, they are living away from each other. The petitioner has instituted M.C.No.114/2013 against the respondent, under Section 13(1)(i-a) and (i-b) of the Hindu Marriage Act, 1955 in the family Court at Belgaum to pass a decree of divorce. The case has been contested by the respondent by filing statement of objections. I.A.II was filed under Section 24 of the Hindu Marriage Act, 1955. Despite the objections being filed vide Annexure-D, an order having been passed, allowing the application in part and directed the petitioner to pay interim maintenance at Rs.4,000/- p.m. from the date of I.A.II was filed, apart from payment of Rs.5,000/- towards litigation expenses, this writ

petition was filed on 25.11.2013, to quash the said order.

2. Finding elements of settlement, the matter was referred to mediation. Mediation being not fruitful, a failure report was received.

3. Petitioner's father was an industrialist. There is no credible material placed on record by the respondent with regard to the income of the petitioner. The respondent has enrolled herself as an advocate, but does not appear to have settled down in her profession. Therefore, she does not have sufficient income to maintain herself. In the circumstances, the Court below is justified in holding that the applicant before it, i.e., respondent herein, is not having sufficient income for maintaining herself.

4. However, the sum which has been quantified by the Court below being without any lawful basis, the quantification of interim maintenance at Rs.4,000/- p.m. appears to be on the higher side. Only to the said extent, there is a need for interference in this petition.

5. Keeping in view the facts and circumstances of the case and the obligation of the petitioner to provide maintenance to the respondent and also pay the litigation expenses, it is ordered as follows:

The writ petition is allowed in part and the impugned order is modified. The liability of the petitioner towards the respondent in the matter of payment of interim maintenance shall be Rs.3,000/- p.m. from the date of I.A.II was filed, until M.C.No.114/2013 is decided by the learned Judge of the family Court at Belgaum. However, there is no justification to interfere with the order directing payment of litigation expenses at Rs.5,000/-. The arrears, if any, shall be paid in equal installments, within a period of three months.

Since the pleadings are complete, if the petitioner and respondent show willingness to proceed with the matter, the family Court shall decide the case with expedition and within a period of six months from next hearing date. It is made dear that, while deciding the main matter, it is open to the family Court to quantify the permanent maintenance, in case, such an eventuality arises.

In view of the above, I.A.No.1/2014 does not survive for consideration.

Ordered accordingly.

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