

Umesh Kumar Vs. Smt. Kiran Devi

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Court : Allahabad

Decided On : Mar-06-2003

Reported in : II(2003)DMC4

Judge : N.K. Mehrotra, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 24

Appeal No. : Civil Revision No. 112 of 2003

Appellant : Umesh Kumar

Respondent : Smt. Kiran Devi

Advocate for Pet/Ap. : Ram Lakhan Vishwakarma, Adv.

Disposition : Revision dismissed

Judgement :

ORDER

N.K. Mehrotra, J.

1. This is a revision under Section 115 of the Code of Civil Procedure against the order dated 16.11.2002 passed by the Civil Judge (Senior Division), Lakhimpur Kheri in Suit No. 243 of 2001 under Section 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 under Section 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 under Section 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 under Section 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.

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