

Paramjit Kaur Vs. Kashmir Singh

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Court : Punjab and Haryana

Decided On : Jul-26-1993

Reported in : I(1994)DMC504

Judge : Amarjeet Chaudhary, J.

Acts : [Hindu Marriage Act, 1955](#) - Sections 13, 13(1) and 24

Appeal No. : F.A.O. No. 54-M of 1990

Appellant : Paramjit Kaur

Respondent : Kashmir Singh

Advocate for Def. : Gurnam Singh, Adv.

Advocate for Pet/Ap. : Sarwan Singh, Adv.

Disposition : Appeal allowed

Judgement :

Amarjeet Chaudhary, J.

1. Paramjit Kaur appellant had filed a divorce petition under Section 13 of the Hindu Marriage Act in the Matrimonial Court at Jalandhar. The Matrimonial Court vide order dated 14.2.1990 had dismissed the same. Aggrieved by the judgment of the Matrimonial Court, the appellant has filed the present appeal.

2. During the pendency of the appeal, the appellant filed an application for grant of maintenance and litigation expenses under Section 24 of the Hindu Marriage Act. This Court vide order dated January 28, 1993, allowed the application and granted a sum of Rs. 2,000/- as litigation expenses and Rs. 500/- per month as maintenance pendente lite from the date of application, i.e., 27.11.1992. The maintenance pendente lite and litigation expenses were to be paid on 16.2.1993.

3. Mr. Sarwan Singh Counsel for the appellant has contended that the respondent-husband has not paid the maintenance pendente lite and litigation expenses. Mr. Gurnam Singh, Counsel for the respondent has contended that despite many letters and telegrams sent to the respondent for the purpose, there is no response from him. Mr. Sarwan Singh, learned Counsel for the appellant has contended that since this Court's order dated 28.1.1993 has not been complied with, the respondent has forfeited his right to plead his case.

4. I have considered the matter.

In the effect of non-compliance of the order passed on the application under Section 24 of the Hindu Marriage Act for the grant of maintenance pendente lite is that the defence is to be struck off.

5. Section 24 of the Hindu Marriage Act was enacted with a view to provide necessary funds to the needy spouse to prosecute the matrimonial proceedings as also to maintain herself or himself or during the pendency of the proceedings. If an application is filed under Section 24 of the Act, maintenance pendente lite can be granted from the date of application or from the date of notice in a proceeding initiated by the husband or wife for divorce.

6. In the instant case, the respondent-husband has failed to comply with this Court's order dated 28.1.1993 vide which.....he was directed to pay a sum of Rs. 2,000/- as litigation expenses and the maintenance @ Rs. 500/- per month to the appellant-wife from the date of application. In view of the clear provision contained in the Act, I am of the firm view that the husband is liable to pay litigation expenses and maintenance allowance throughout the litigation proceedings.

7. As mentioned in the earlier part of the judgment, the respondent has not paid anything despite having been granted sufficient time to comply with this Court's direction. As such, this Court has no option but to strike off the defence of the respondent.

8. In view of the foregoing discussion: the defence of the respondent is struck off.

9. The appellant had filed a petition under Section 13 of the [Hindu Marriage Act, 1955](#), for dissolution of her marriage by a decree of divorce against her husband Kashmir Singh--respondent on the sole ground of cruelty. I have gone through the evidence produced by the appellant and find that the appellant has led sufficient evidence to prove that she had been treated with cruelty by her husband. The finding arrived at by the Trial Court to the contrary is reserved. Consequently, the appeal is allowed, the judgment of the Trial Court is reversed and a decree for dissolution of marriage by a decree of divorce is passed in favour of the appellant-wife and against the respondent-husband.

10. No order as to costs.