

Sohan Singh Vs. Manjit Kaur

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Court : Punjab and Haryana

Decided On : Nov-25-1993

Reported in : (1993)105PLR563

Judge : A.P. Chowdhri, J.

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

Appeal No. : Civil Revision No. 299 of 1993 and Civil Misc. No. 8070-CII of 1993

Appellant : Sohan Singh

Respondent : Manjit Kaur

Advocate for Def. : H.N.S. Gill, Adv.

Advocate for Pet/Ap. : S.S. Mahajan, Adv.

Judgement :

A.P. Chowdhri, J.

1. This order will dispose of Civil Revision No. 299 of 1993 as also Civil Misc. No. 8070-CII of 1993 made in the above said revision petition.

2. Sohan Singh-petitioner instituted a petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights against his wife, Smt. Majit Kaur. During the pendency of the said petition, an application under Section 24 of the

Hindu Marriage Act was made by the wife claiming litigation expenses and maintenance allowance during the pendency of the proceedings. The application was contested by the husband. By order dated 22.9.1992 the Additional Senior Sub-Judge, Rupnagar directed maintenance @ Rs. 800/- per month and litigation expenses amounting to Rs. 1000/-. Aggrieved by the order, the husband preferred the above said revision petition.

3. During the pendency of the revision petition, the wife made above mentioned civil miscellaneous application under Section 24 of the Act for grant of maintenance pendente lite and litigation expenses. The averments in the application under Section 24 made in this Court and in the reply filed on behalf of the husband thereto, parties have reiterated the averments made by them earlier in the trial Court. The case of the wife is that she has no independent source of income and she is living at the sufferance of her parents who are old and have other members of the family to look after. Her further case is that the husband is an agriculturist earning from that source alone about Rs. 5000/- per month. In addition, he is working as driver of harvester combine and a truck. It is further alleged that he is keeping 5-6 buffaloes and is selling their milk and his income from the various sources is Rs. 7000/- to 8000/- per month. She has claimed Rs. 2000/- per month as maintenance and Rs. 5000/- as litigation expenses. The case of the husband in reply is that his father owns only about five acres of land. He has three other brothers besides the father dependent on the land. He denied working as driver of harvester combine or truck. He has, however, not controverted the fact about the keeping of buffaloes. He has further alleged that the wife is earning independently.

4. At the time of arguments, Mr. S.S. Mahajan, learned counsel for the wife referred to Jamabandi for the year 1989-90. The counsel appearing for the husband was asked if he would like to take an adjournment for examining the Jamabandi. He took some time in perusing the same and obtaining instructions from the client who was present at the time of hearing. After perusal of the Jamabandi, learned counsel for the husband stated that it was correct that the husband's father owns 13-1/2 acres of land, out of which two killas were given to one of the brothers and the remaining 11 1/2 killas which were left with the father,

was supporting the remaining three sons and the father.

5. Mr. Mahajan stated that the revision petition deserves to be dismissed as infructuous as the main petition under Section 9 of the Act itself had been dismissed by the trial Court. The reply of Mr. Gill is that against the order of dismissal, an appeal has been preferred which is pending. That being so, the present petition cannot be dismissed as infructuous especially as any order passed in the revision petition would affect his liability for the period for which the trial Court ordered the grant of maintenance pendente lite.

6. The plea that the wife had independent source of income, cannot be seriously pressed in the absence of any cogent material to support it. The finding of the trial Court on this point, therefore, deserves to be confirmed.

7. As against the averments of the husband that his father owns only five killas of land, it would not be disputed by his learned counsel at the time of hearing in view of production of the Jamabandi that his father owns about 11-1/2 killas of land after taking apart two killas of land which is stated to have been given to one of the brothers of the husband. In the facts and circumstances of the case, the revision petition is allowed to the extent that instead of maintenance pendente lite being Rs. 800/- per month, the amount of maintenance allowance is fixed at Rs. 500/- per month from the date of application made in the trial Court. The order with regard to litigation expenses ordered by the trial Court calls for no interference.

8. Insofar as this Court is concerned, the husband shall further pay a sum of Rs. 1500/- as litigation expenses besides maintenance pendente lite for the period 5.10.1993, the date of application under Section 24 made in this Court till today at the same rate, namely Rs. 500/- per month. It is made clear that the intention is not to make the husband to pay twice for any of the period and all what he is required to pay is maintenance pendente lite at the rate stated above.

9. Both, the revision petition and the civil misc. are disposed of in these terms. Parties through their counsel are directed to appear in the Court where appeal against the order dismissing petition under Section 9 of the Act is stated to be pending on 13.12.93.

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