

**Deepak Arora Vs. Jyoti Arora**

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**Court :** Delhi

**Decided On :** Apr-15-2004

**Reported in :** 111(2004)DLT98; I(2004)DMC707; 2004(77)DRJ561

**Judge :** Vikramajit Sen, J.

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

**Appeal No. :** CRP No. 681 of 2002 and CM Nos. 841/03, 2474/03 and 1122 of 2004

**Appellant :** Deepak Arora

**Respondent :** Jyoti Arora

**Advocate for Def. :** Vikash Mahajan, Adv.

**Advocate for Pet/Ap. :** M.R. Chawla, Adv

**Disposition :** Petition dismissed

**Judgement :**

**Vikramajit Sen, J.**

1. This Revision is directed against the Order dated 3.6.2000 by which the Additional District Judge had decided the application filed by the wife under Section 24 of the Hindu Marriage Act, for interim maintenance. This Order is

intrinsically interlocutory in nature; it does not finally dispose of the proceedings; and can be modified or varied if the circumstances so warrant. The erstwhile provision whereby a Revision against such orders could be entertained, by adopting the prima facie view that the order, if allowed to stand, would cause a failure of justice or irreparable injury to the party against whom it was made, is no longer a part of the Civil Procedure Code. The exposition of the law is now available in the Judgments of the Hon'ble Supreme Court in Shiv Shakti Coop. Housing Society, Nagpur v. Swaraj Developers and Ors., : [2003]3SCR762 . Surya Dev Rai v. Ram Chander Rai and Ors., : AIR 2003 SC3044 . The Revision is, therefore, liable to be dismissed on this short ground.

2. The matter has been heard in some detail and I would, therefore, prefer to record my findings on merits also. The Respondent/Wife has been granted a sum of Rs. 2,500/- per month from the date of the filing of the application and Rs. 3,000/- per month as maintenance with effect from 4.6.2002. So far as the Wife is concerned it has been alleged by the Revisionist/Husband that she is in a position to maintain herself. It had been asseverated by the Husband firstly that the Wife was running a Beauty Parlour but there is no evidence to substantiate this plea. It appears that Police inquiries in this context had been conducted, and the findings were against the Husband. The ADJ has, therefore, recorded that there was sufficient evidence at that stage to reject the Husband's contention. It has then been stated that the Petitioner had taken up employment as a Primary Teacher. The Explanation of the Wife, which has been substantiated by statements made on behalf of the concerned School, is that she was never under the employment of the School and that she was only permitted to teach students of Upper K.G. to enable her to gain experience which was a necessary condition for seeking admission in B.Ed course in Indira Gandhi National Open School (IGNOU). This allegation was, therefore, also correctly rejected at that stage. Mr. Chawla, learned Counsel for the Husband, has next vehemently contended that the Wife is enjoying an air-conditioned room in her father's house and has the use of a car and, therefore, any maintenance given by the Husband would tantamount to being a drop in the ocean. So far as these allegations are concerned it is the Wife's case that after being turned out of the house by the Husband she had perforce to return to the refuge of her parental home where she has been allowed

the use of one room. She has denied ownership of a car which is stated to belong to her brother. It appears that the Wife's father had bequeathed the property to his widow and the Husband has gone to the extent of alleging that the Will is forged and fabricated. At best, in the absence of a Will, and assuming that the property was the individual property of the late father of the Wife, the latter would have only 1/4th share in the property. The prima facie finding of the ADJ cannot be faulted at the interim stage.

3. The Trial Court has carefully considered the likely income of the Husband, keeping in perspective the fact that there has been a voluntary disclosure of income (VDIS) by him, and that the Income Tax Return of Rs. 43,000/- could not be relied upon. Keeping in view the fact that the Husband has the custody of two children from this ill-fated wedlock, and that the Husband would have to incur extra expenses on this account, the ADJ has granted maintenance which cannot be viewed as excessive. I was inclined to dismiss the Revision with costs but decline from doing so.

4. The Revision Petition is dismissed.

5. All pending applications also stand dismissed.

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