Ms. Gayatri Devi Vs. Mr. Shiv Kumar

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SooperKanoon Citation : sooperkanoon.com/692296

Court : Delhi

Decided On : Feb-21-2002

Reported in : 2002VIAD(Delhi)797b; 2002(62)DRJ740; 2002RLR570

Judge : S.N. Kapoor, J.

Appeal No. : FAO 34/97

Appellant : Ms. Gayatri Devi

Respondent : Mr. Shiv Kumar

Advocate for Def. : Gurmeet Bindra, Adv.

Advocate for Pet/Ap. : Rita Kumar, Adv

Judgement :

S.N. Kapoor, J.

1. Heard both the parties on the point of amount of the maintenance. The total income of the respondent Mr. Shiv Kumar is Rs.14,258/- and the total income of the petitioner, Ms. Gayatri Devi, is Rs.7,539/- as per the salary certificate relating to February, 1999 and December, 2001 which is on record. There is an unmarried sister of the husband who is dependent on the appellant.

2. It is also not in dispute that the appellant has refused to live with the respondent and even did not file any application for claiming that the defendant should be restrained from marrying. In the meanwhile, the respondent/husband has again married and there is one son with the (second) wife.

3. In the aforementioned circumstances, if the entire income is to spent prudently in larger interest of each of the family members, it has to be considered in units according to comparative needs of each of them. Daughter of the appellant with the first wife is 13 years and the son is 14 years. The son from the second wife is 1/2 years. In case one takes one unit for sister, one unit for the husband, one unit for the appellant and two children through first wife, one unit for the lady who had married subsequently and half unit for the child through the second wife, then it comes to 6-1/2 units. Since daughter from the first wife is 13 years of age, the father is supposed to make some savings for the marriage of the daughter and half unit should be meant for the family savings for this specific purpose. Thus, income could spread over seven units. It is stated that the husband has got a provisional insurance policy of Rs.1,00,000/-. A photocopy of the same is being filed by the learned Counsel for the respondent and it is sought to be finalised.

4. In the aforesaid fact and circumstances, the income of both the parties may be taken safely at Rs. 22,000/- per month, it appears that in all the appellant should have at least Rs.9,000/- P.M. to maintain herself and her son and the daughter. She is already getting Rs.7,539/-. thereforee, it may be appropriate to increase the amount of maintenance from Rs.1,000/- to Rs.1,500/- taking into consideration the point of insurance policy for the purpose of education and marriage of the daughter of the parties. It is also expected from both the parties that the future increases shall be invested for the purpose of meeting the expenditure in case of illness, marriage of the son and daughter etc.

5. The husband is accordingly directed to pay Rs.1,500/- P.M. Along with filing an affidavit that he would not be withdrawing anything beyond 50% out of the Provident Fund amount and keep the policy alive for the purpose of marriage of the daughter and any other expenditure which may be necessary for the maintenance and education etc. of the children through the first wife. 50% amount

of the Provident Fund and the savings may be used by the husband to meet the similar contingencies in respect of illness etc. as well as for the education and bringing-up of the son through the second wife and other family members. The applicant as well as the respondent shall file an affidavit within a week that they shall use all further increases in their income for the purpose of savings to meet the above contingencies. This order is being passed with the consent of both the parties. The application under Section 24 is disposed of accordingly.

6. List on 22nd March, 2002.