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indu Gupta Vs. Sanjay Kumar Gupta

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SooperKanoon Citation : sooperkanoon.com/695949

Court : Delhi

Decided On : Nov-28-1991

Reported in : 46(1992)DLT143; I(1992)DMC164

Judge : P.N. Nag, J.

Acts : Hindu Marriage Act, 1955 - Sections 24

Appeal No. : Civil Miscellaneous Appeal No. 328 of 1989

Appellant : indu Gupta

Respondent : Sanjay Kumar Gupta

Advocate for Pet/Ap. : S.S. Vats and; Monoj Shama, Advs

Judgement :

P.N. Nag, J.

(1) The petitioner has filed this Revision against the order of Addl. Sessions Judge Delhi dated 18-2-1989 whereby the petitioner wife has been granted Rs. 300.00 per month for maintenance of the child with effect from the 13-8-1988 and litigation expenses fixed at Rs. 750.00 and nothing has been granted as maintenance to her.

(2) It is the admitted case of the parties that the respondent is a Junior Engineer in D.D.A. and is drawing Rs. 2,377.88. In the normal course the Court should have granted maintenance to the wife petitioner also having regard to the earning capacity of the respondent husband but what appears to have weighed in the mind of the Court that there is a house in the name of the petitioner's wife which has been sold for Rs. 2 lacs and, thereforee, according to the trial Court she is not without any income.

(3) From the judgment it appears that the flat in Rohini was purchased in her name on the basis of the power of attorney but it does not show that It belongs to her. It is also not shown as to from where the assets have come to the wife for the purchase of the flat. It is admitted by the respondent husband that he gave Rs. 20,000.00 to the respondent and the balance amount was spent by the father of the petitioner's wife. This money appears to have been returned. At any rate the wife is without any income and it is the duty of the husband to provide maintenance to her in addition to the child. The petitioner wife has asked for Rs. 1,000.00 per month for herself and the child andRs.2,000.00 for litigation expenses. Having regard to the fact that the respondent husband Is also only drawing Rs. 2 300.00 it would be expedient in the interest of justice to direct the respondent husband to pay to the petitioner wife Rs. 400.00 as maintenance and Rs. 300.00 as maintenance of the child already granted by the trial Court i.e. Rs. 700.00 in all with effect from 13-10-1988. Litigation expenses shall be Rs. 1.000.00 and is ordered accordingly. Arrears will be paid within two months.

(4) C.R. stands disposed of.

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