

Man Mohan Lal Vs. Suman Lal

Man Mohan Lal Vs. Suman Lal

SooperKanoon Citation : sooperkanoon.com/698947

Court : Delhi

Decided On : Feb-23-1996

Reported in : 1996IAD(Delhi)925; 63(1996)DLT772

Judge : M.K. Sharma, J.

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

Appeal No. : Civil Revision Appeal No. 1065 of 1995

Appellant : Man Mohan Lal

Respondent : Suman Lal

Advocate for Pet/Ap. : C.P. Saxena, Adv

Judgement :

M.K. Sharma, J.

(1) The present revision petition is directed against the order dated 4.11.1995 passed by Shri A.K. Pathak, Additional District Judge, dismissing the application of the petitioner for variation of the maintenance allowance in H.M.A Case No. 244/1991.

(2) The petitioner filed the petition before the Additional District Judge seeking divorce from the respondent on the ground of cruelty. The respondent filed an

application under Section 24 of the Hindu Marriage Act for grant of maintenance pendente lite and litigation expenses. By order dated 25.1.1994, the Trial Court was pleased to grant maintenance to the respondent at Rs. 500.00 per month with effect from 14.8.1992, the date on which the aforesaid application was filed and also litigation expenses at Rs. 1,100.00. The petitioner moved a revision petition before this Court which was numbered as Revision Petition No. 232/1994 and by order dated 20.9.1994, this Court allowed the petitioner to withdraw the aforesaid revision petition.

(3) On 10/07/1995, the petitioner filed an application for variation of the order dated 14.8.1992 passed by the Trial Court on the allegation that as lock-out has been declared in the 'Sunday Mail' where the petitioner has been working as a Clerk/Operator, the amount of maintenance pendente lite is required to be varied to the extent that the petitioner be granted liberty not to make payment from May, 1995 onwards to the respondent. The ground taken in the aforesaid application was that the 'Sunday Mail' where the petitioner was working is lying closed on the account of the aforesaid lock-out since April, 1995 and, therefore, his salary is not being paid by his employer. In support of his application, the petitioner also placed on record the notice declaring lock-out in the aforesaid establishment.

(4) The respondent opposed the aforesaid application stating, inter alia, that the petitioner had defaulted in making payment on earlier occasions despite orders passed by this Court on 9.3.1994. She further alleged that the petitioner owns a plot at Tekhand Village, Okhla Phase-1, New Delhi, and is deriving a rental income of Rs. 1,000.00 per month and that he has also received his share from the sale of ancestral property worth several lakhs.

(5) The Additional District Judge, Delhi after hearing the parties by his order dated 4.11.1995 held that since maintenance amount was only a sum of Rs. 500.00, there was no force in the application filed by the petitioner and accordingly he dismissed the same, hence the present revision petition.

(6) The learned Counsel appearing for the petitioner submitted before me that in view of the closure of the establishment where the petitioner was working, because of the lock-out declared in the said establishment, the petitioner is not being paid

his salary and, therefore, without any means to pay the maintenance amount. Since he has no other source of income, the order directing for payment of Rs.500.00 per month towards maintenance pendente lite requires to be varied. On the other hand Mr. H.P. Ohri appearing as Attorney for the respondent submitted before me that although there has been a lock-out in the establishment where the petitioner was working, he has other source of income like rental income and that he has received a share from sale of his ancestral property worth several lakhs.

(7) Having considered the submissions of the parties and on going through therecords, I find that the fact of lock-out in the establishment where the petitioner has been working is more or less admitted. The Trial Court while directing by order dated 14.8.1992 to pay maintenance pendente lite to the respondent at the rate of Rs.500.00 per month took into consideration the factum of the petitioner being employed at 'Sunday Mail' where from he was deriving an income of Rs. 3,000/- per month and on the basis thereof, granted maintenance at Rs. 500.00 per month to the wife towards the maintenance pendente lite. Now, in view of the lock-out in the establishment, there is definitely a change of situation and circumstances. Since the petitioner, at the moment, is deprived of the aforesaid income of Rs. 3,000.00 per month from the office where he has been working, the relief sought for by THE petitioner requires consideration. The learned Trial Court while considering the matter regarding variation in the amount of maintenance allowance pendente lite to be paid to the respondent found that the petitioner has a rental income of Rs.1,000.00 per month besides receiving certain amount as his share from the sale of ancestral property worth several lakhs. The learned Trial Court, however rejected the prayer for varying the amount of maintenance allowance to be paid to the wife on the ground that the petitioner being an able bodied man is able to earn at least a sum of Rs. 2,000.00 by either working on part-time basis or otherwise for his survival. But the fact remains that there is no evidence on record to show that THE petitioner in fact is earning such an amount of Rs. 2,000.00 per month at the moment.

(8) On consideration of the entire facts and circumstances of the case, I am of the opinion, that in view of the changed circumstances and taking into consideration the fact of reduction in the earning of the petitioner on account of the lock-out in the

establishment, the amount granted towards the maintenance allowance pendente lite to the wife requires variation, at least, for the present. Since there is a finding on the Trial Court that the petitioner has a rental income of Rs. 1,000.00 per month and also has received some amount as his share from the sale of ancestral property worth several lakhs, considering the totality of the facts and circumstances, it would be just and appropriate to vary the amount of maintenance allowance pendente lite to the wife and grant Rs. 350.00 to the wife (respondent) towards maintenance allowance pendente lite. The payment of the said amount would be effective from the month of February, 1996 till further orders passed in this regard. The petitioner shall, however, pay Rs. 500.00 per month to the wife towards the maintenance allowance pendente lite up to 31.1.1996. It is further made clear that the fixation of maintenance allowance pendente lite be paid to the wife at Rs. 350.00, in view of the fact of lock-out in the establishment in which the petitioner was working, and decrease in the earning of the petitioner. It is thus made clear that, in case the aforesaid lock-out is lifted or there is increase in the earning of THE petitioner, the respondent shall be at liberty to file an application before the Trial Court, who on consideration of the facts and circumstances of the case would be entitled to increase the rate of maintenance allowance pendente lite to be paid to the wife as deemed fit and proper.

(9) In the result, this petition is allowed to the extent indicated above, but, without any costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com