

Puran Chand Vs. Mst. Kamla Devi

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Court : Jammu and Kashmir

Decided On : Apr-04-1980

Reported in : AIR1981J& K5

Judge : Mufti Baha-Ud-Din Farooqi, Ag. C.J.

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

Appeal No. : First Appeal No. 25 of 1976

Appellant : Puran Chand

Respondent : Mst. Kamla Devi

Advocate for Pet/Ap. : Rachpal Singh, Adv.

Disposition : Appeal allowed

Judgement :

Mufti Baha-Ud-Din Farooqi, Ag. C.J.

1. Section 24 of the Hindu Marriage Act, reads thus:

'Where in any proceeding under this Act it appears to the court that either the wife or husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the wife or the husband, order the respondent to pay to the petitioner

the expenses of the proceeding, and monthly during the proceeding such sum, as having regard to the petitioner's own income and the income of the respondent it may seem to the court to be reasonable.'

2. On a plain interpretation of this section, a child born out of the wed-lock between litigating husband and wife is not entitled to maintenance pendente lite. Such maintenance can be granted in favour of the wife or the husband as the case may be. The maintenance is to be allowed on monthly basis 'during the proceeding'. The words 'during the proceedings' connote that the maintenance shall be admissible from the commencement till the conclusion of the proceedings in the trial court. The proceedings in the trial court would normally commence from the date on which the issues are framed, which is ordinarily known as the first hearing. In the view expressed above, the lower court was not justified in allowing maintenance, pendente lite in favour of Rajan, the minor daughter of the parties. Nor even in allowing such maintenance in favour of the wife from the date of the filing of the petition.

3. The court ought to have disallowed the request for maintenance pendente lite in so far as Rajan was concerned, and allowed the same in favour of the wife from the date the issues were struck. Allowing this appeal, I modify the order accordingly. There shall be no order as to costs.