

Renu Vs. Ganesh Singh

Renu Vs. Ganesh Singh

SooperKanoon Citation : sooperkanoon.com/956591

Court : Delhi

Decided On : Feb-01-2013

Judge : Pradeep Nandrajog

Appellant : Renu

Respondent : Ganesh Singh

Judgement :

\$~8 * IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of Decision: February 01, 2013 + FAO 367/2012 RENU Appellant Represented by: Ms.Geeta Dhingra, Advocate versus GANESH SINGH Respondent Represented by: Ms.Sangeeta, Advocate CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE VEENA BIRBAL PRADEEP NANDRAJOG, J.

(Oral) 1. Heard learned counsel for the parties.

2. Admittedly the appellant is maintaining herself and two minor children being a son aged 10 years and a daughter aged 6 years. She is unemployed. Respondent has not been able to make good the assertion that appellant earns money by pursuing the vocation of stitching clothes or by working in a beauty parlour or teaching children.

3. As regards the respondent his salary slip would show a monthly wage of `8826/- , as of July 2010, being an employee of Spice Net Company, D-4 Okhla Industrial

Area, Phase-I, New Delhi.

4. Property bearing Municipal not WZ-83 Village Dasghara, New Delhi, which consists of four floors and comprises a plot of land ad-measuring 100 sq.yd. admittedly belonged to the respondent, but he claims that in the year 2004 he sold the same to his sister.

5. The issue with which we are concerned in the appeal is the net monthly income of the respondent for purposes of grant of maintenance to the wife i.e. the appellant who is maintaining two minor children.

6. As per the impugned order dated February 04, 2012, the learned Judge, Family Court has assessed respondents monthly income to be `20,000/- and yet in spite thereof appellant has been granted monthly maintenance in sum of `2,000/- each for herself and her two children; totalling `6,000/- per month; litigation expenses have been denied.

7. Impugned order would reveal that the learned Judge, Family Court has disbelieved respondents version that he has sold the house not WZ-83 Village Dusghara, New Delhi to his sister and that he and his mother, who are residing on the ground floor of the house, are paying `4,000/- per month as rent to the respondent sister, for the reason there is credible evidence to disbelieve the respondent with respect to said assertion. The reason is that the electricity bill for the entire house is issued in the name of the respondent even till today and payment made by cheque to the electricity supply company is through the account of the respondent, and as a sample we may record that the bill for the month of August 2010 would reveal a demand raised in sum of `4,680/- .

8. There is one more reason to disbelieve the respondent. The so called sale document is an unregistered Power of Attorney, and we note that in Delhi it is easy to procure back dated stamp papers of denomination up to `100/- and create ante-dated documents.

9. There is other material from which an inference can be drawn that the respondent is not stating the truth. If he earns about `8,800/- per month it would be

difficult to believe that he would pay a rent of `4,000/- per month. Further, assuming that his sister did not get the electricity connection changed in her name after respondent sold the house to her, we see no reason why the sister would not collect the proportionate electricity dues from the other occupants of the building who are tenants. Why would the respondent collect the proportionate electricity dues? 10. It is not in dispute that three floors in the property are on rent. Whereas the respondent states that his sister gets a rent of about `10,000/per month, the appellant asserts the figure to be `20,000/- per month and that the respondent receives the rent.

11. Now, it would be difficult to ascertain as to who is telling the complete truth, but we can find something of relevance in the false stand taken by the respondent. As noted above, he claims to be paying `4,000/per month rent for the ground floor to his sister and this figure appears to be the result of the respondent knowing that said ground floor could fetch a rent of `4,000/- per month. Since the building is a four storeyed building, of which the ground floor is with the respondent, one can presume that the other floors would fetch rent at least in sum of `4,000/- per month and this would mean a net monthly rental income of `12,000/-. We add thereon the monthly salary income received by the respondent in sum of `8,800/- and this takes the figure to `20,800/- per month.

12. Whereas the respondent is living in his house and has only one mother to maintain, the appellant has to fend for herself and her two children and thus we dispose of the appeal enhancing monthly maintenance to be paid by the respondent to the appellant to `10,000/- per month which shall be paid by the respondent from the date appellant filed the application under Section 24 of the Hindu Marriage Act. Noting that the learned Judge, Family Court has not granted any litigation expenses to the appellant we direct respondent to pay appellant litigation expenses in sum of `25,000/-.

13. As regards the instant appeal there shall be no order as to costs. (PRADEEP NANDRAJOG) JUDGE (VEENA BIRBAL) JUDGE FEBRUARY 01 2013/dkb