

IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC AT SEDAM

PRESENT:

SRI.SAGAR GURUGOUDA PATIL

Senior Civil Judge & JMFC., Sedam ^{B.A., LL.B(Spl).}

DATED THIS THE 20th DAY OF DECEMBER-2024.

M.C. No.15/2024.

PETITIONER:

Basanna

(Adv. for petitioner by Sri.P.K.)

(V E R S U S)

RESPONDENT:

Radha

(Advocate for Resp. by Sri.R.I.)

I.A.No.I

Radha

Applicant/Respt.

//Versus//

Basanna

Opponent/Petitioner

i.	Provision under which the application is filed	U/s 24 of Hindu Marriage Act.
ii	Relief sought for	Sec.13(1)(i-b) of Hindu Marriage Act.
iii	The date on which the application is filed	26-10-2024
iv	Number of application	One
v	The date on which the objections are filed by different opponents	23-11-2024
vi	The date on which the orders were passed on the said application	20-12-2024

ORDER ON I.A.No-I U/Section 24 of HINDU MARRIAGE ACT

The respondent has filed this application U/s.24 of Hindu Marriage Act and sought to grant a sum of Rs.20,000/- per month towards interim maintenance and Rs.30,000/- towards litigation expenses to the respondent.

2. The respondent/applicant has sworn to an affidavit in support of IA No.I and stated that the respondent is having minor baby girl by name Bhagyashri and she is not an employee and she does not have any income of her own to survival and she and her daughter are depending upon her parents. The petitioner and his family members neglected and thrown out the respondent and her daughter from the house of petitioner since she is resident her parental house. The petitioner without any knowledge and mistake of respondent has filed this divorce petition. The intention of petitioner to marry another lady filing false divorce petition without any single allegation of the respondent.

3. The respondent is residing in her parental house on the mercy of parents. The petitioner is having lands in his village and has

got sufficient income from the lands worth Rs.10 lakhs per year, hence the petitioner is sufficient means to pay the interim maintenance of Rs.20,000/- and Rs.30,000/- towards litigation expenses. The respondent did not do any work. The petitioner has willfully neglected his wife i.e., respondent without any single mistake by the respondent. But the intention of the petitioner to give divorce to the respondent and marry another lady taking big dowry amount and willfully deserted the company of the respondent by the petitioner. Hence, prays to allow the IA.

4. The petitioner has filed his objections to IA and admitted that he has filed this petition seeking decree of divorce. He has denied rest of the contents of the affidavit filed in support of IA. The petitioner has admitted that the plaintiff and respondent are having a minor child by name Bhagyashree. It is submitted that the petitioner even today is ready to keep the respondent and his daughter with him in his house but the respondent herself is not ready to live with the petitioner. She herself in her cross-examination in CrI.Misc.No.152/2018 dated 17.2.2023 has refused to go with the petitioner and live with him and perform her marital duties. She has admitted that she is living in her parental house since 8 years. It is also admitted by the respondent that she has not seen the petitioner's marriage and has not produced any evidence about the petitioner's second marriage. The allegation of second marriage of the petitioner is itself false and baseless. The petitioner has denied that he has got sufficient income from the lands worth Rs.10 lakhs per year. It is submitted that already the respondent had filed the suit for partition and separate possession before the Civil Judge, Sedam in O.S.No.28/2018. As per the suit there is only one joint family property land Sy.No.48/3 measuring 3 acres 12 guntas, wherein the mother and two of the petitioner's sister are made parties and they

have got 1/4th share each in the said land. The petitioner is having only share to the extent of 00 acre 33 guntas and from such small land the income of Rs.10,00,000/- is totally false and baseless. It is denied that the petitioner has deserted the respondent with an intention to marry another lady taking big dowry amount without any mistake of the respondent. The respondent has deserted the petitioner as he is having an old age mother and the respondent is not ready to look after her. The respondent is also not ready to perform her marital duties saying that the petitioner is not doing any work and not good looking. It is submitted that the petitioner is a poor person and the Civil Judge, Sedam has already granted the relief of maintenance to the respondent. It is not possible to the petitioner to pay further amount of maintenance to the respondent and even today the petitioner is ready to take the respondent and the daughter and provide the shelter according to his status. Hence, prays to reject the IA.

5. Perused the records. Heard the arguments.

6. On the basis of the above rival contentions, the following points arise for my consideration.

- 1) Whether the respondent proves that she is entitled for interim maintenance? If so, what is the quantum?
- 2) What order?

7. My findings on the above points are as under:

Point No:1 : As per the observation.

Point No.2: As per final order
for the following:

REASONS

8. POINT No.1: The relationship of the parties is not in dispute. It is not in dispute that the petitioner and the respondent are presently residing separately.

9. The respondent has claimed pendent lite maintenance from the petitioner. She has alleged that the petitioner is having lands and income from it. But in order to substantiate the above contention the respondent has not produced any documents. Though his source of income is not shown by the respondent the petitioner being the husband is liable to maintain his wife-the respondent as it is his moral and legal obligations. At this stage it is useful to refer the decision of the **Hon'ble Supreme Court in Shail Kumari Devi VS Krishnan Bhagawan Patak AIR 2008 SC 3006, wherein the Hon'ble Supreme Court held that "maintenance is a right which accrues to a wife against her husband the minute the former gets married to the latter. It is not only a moral obligation but is also a legal duty cast upon the husband to maintain his wife". The purpose of maintenance therefore is definitely to prevent vagrancy and provide financial support in appropriate cases to the wife. By the provision enshrined in Section 24 of the Hindu Marriage Act, the amplest discretion has been conferred on the Court in a matrimonial proceeding to pass appropriate order in this regard.**

10. The learned counsel for the respondent has argued that the husband is duty bound to maintain his wife. In support of his argument he has relied on the decision of the Hon'ble High Court of Karnataka in the case of Mr.Uday Nayak V/s Mrs. Anita Nayak in WP

No.22006/2022 (GM-FC) DD.24.11.2022, wherein the Hon'ble High Court at para 13 of its judgment held as under:

13. Though it was sought to be submitted by the learned counsel for the respondent, and by the respondent himself that he has no source of income as his party business has now been closed, the court is neither impressed by nor is ready to accept such submissions. The respondent being an able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child. Having regard to the evidence of the appellant-wife before the Family Court, and having regard to the other evidence on record, the court has no hesitation in holding that though the respondent had sufficient source of income and was able-bodied had failed and neglected to maintain the appellants. Considering the totality of facts and circumstances, we deem it proper to grant maintenance allowance of Rs.10,000/- per month to the appellant-wife, over and above the maintenance allowance of Rs.6,000/- granted by the Family Court to the appellant No.2-Son.

11. Further it is useful to refer the decision of the Patna High Court in Sunil Chandra Singh VS Smt. Seema Singh AIR 2016 Patna 123, wherein the Hon'ble Patna High Court held as under:

(A) Hindu Marriage Act (25 of 1955), S.24 - Interim maintenance - Grant of, to wife and daughter - Pendency of matrimonial case for divorce between parties - Husband not only morally obliged but legal duty also cast upon him to maintain his wife. No cogent evidence produced by husband to support his plea of not continuing in service - No averment denying other sources of income of husband as alleged by wife - As such amount of Rs.15,000-00 per month for maintenance of two persons neither excessive nor unreasonable - Grant of Rs.15,000-00 per month as interim maintenance to wife and daughter, proper.

12. The above principles of law laid down by the Hon'ble Supreme Court and the Hon'ble High Courts are aptly applicable to the case on hand. Accordingly in this case the petitioner being the

husband is not only morally obliged but also he is having legal duty to maintain his wife. Therefore by considering the daily needs of the respondent, cost of living, her medical expenses and personal expenses if Rs.2,000/- per month is awarded it can be justified looking to the today's market prices. Therefore, the petitioner is liable to pay an interim maintenance of Rs.2,000/- per month to the respondent from the date of this order till disposal of this petition.

13. The respondent is resident of Keshwar, Tq: Gurumitkal and the petitioner himself forced her to come to the court to defend this case. Therefore, he is also liable to pay litigation expenses and traveling expenses to the respondent. Therefore, if Rs.10,000/- is awarded towards litigation expenses it will meet the ends of justice. Hence, I answer point No.1 accordingly.

14. Point No.2: For the reasons stated above I pass the following:

ORDER

The petition filed by the respondent U/s 24 of Hindu Marriage Act is partly allowed.

The petitioner is liable to pay interim maintenance of Rs.2,000/- per month to the respondent from the date of this order till disposal of the petition.

The petitioner is hereby directed to pay an amount of Rs.10,000/- to the respondent towards litigation expenses on or before next date of hearing.

The petitioner shall pay the monthly interim maintenance within 10th day of Every month till disposal of the petition.

(Dictated to the Stenographer directly and typed by him on computer

and corrected, signed and then pronounced by me, in the open Court on this the **20th day of December-2024**)

(Sagar Gurugouda Patil)
Senior Civil Judge & JMFC.,
Sedam.