

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

**PRESENT:**

SRI.SAGAR GURUGOUDA PATIL

Senior Civil Judge & JMFC., Sedam <sup>B.A., LL.B(Spl).</sup>

**DATED THIS THE 20<sup>th</sup> DAY OF DECEMBER-2024.**

**M.C. No.21/2024.**

**PETITIONER:**

Mallareddy

(Adv. for petitioner by Sri.N.R.)

**( V E R S U S )**

**RESPONDENT:**

Sunita

(Advocate for Resp. by Sri.S.V.P.)

**I.A.No.II**

Sunita

Applicant/Respt.

//Versus//

Mallareddy

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-a) & (i-b) of Hindu Marriage Act.
iii	The date on which the application is filed	17-08-2024
iv	Number of application	One
v	The date on which the objections are filed by different opponents	21-09-2024
vi	The date on which the orders were passed on the said application	20-12-2024

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

The respondent has filed this application U/s.24 of Hindu Marriage Act and sought to grant the maintenance pendente lite and litigation expenses to the respondent.

**2.** The respondent/applicant has sworn to an affidavit in support of IA No.II and stated that the petitioner has filed this petition seeking dissolution of marriage on the false and concocted grounds. The petitioner without any reasonable and justifiable reason neglected the respondent. The respondent is not having any source of income to lead her life. She is even unable to meet the litigation expenses. The petitioner being the husband is duty bound to maintain the respondent. The petitioner is having landed property and he is having sufficient means to maintain the respondent. Hence, prays to allow the IA No.II.

**3.** The petitioner has filed his objections to IA and admitted that he has filed this petition seeking dissolution of marriage. He has contended that the application is not maintainable and he has denied rest of the averments of the affidavit. He has submitted that the

respondent is working and she is having income. Therefore, the petition is not maintainable. The petitioner is having income of Rs.32,000/- per annum. Hence, he is not able to give maintenance to the respondent. Hence, prays to dismiss the IA No.II.

4. Perused the records. Heard the arguments.

5. 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?

6. 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**

7. **POINT No.1:** The relationship of the parties is not in dispute. It is not in dispute that the petitioner and the respondent are living separately.

8. The respondent has claimed pendent lite maintenance from the petitioner. She has alleged that the petitioner is having land to an extent of 3 acres 36 guntas. The petitioner in his assets and liability has admitted that he is having land to an extent of 3 acres. The same show that the petitioner is having source of income. The

petitioner has contended that the respondent is working and earning. But in order to substantiate the same he has not placed on record any document. Further he has stated that the respondent is getting Rs.4,000/- per month from the Government as handicapped Pension Scheme. In the opinion of this court the amount which is given to the eligible person by the government under the Social Welfare Scheme cannot be considered as income of that individual. The same shows that the respondent is not having source of income for her livelihood. Apart from this the petitioner being the husband is liable to maintain his wife-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.**

9. 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.**

**10. 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.**

**11. 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.

**12.** The respondent is resident of Hayyal, Tq: Sedam 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.

**13. 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 10<sup>th</sup> 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 **20<sup>th</sup> day of December-2024**)

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