

Mat Suit No. 0200191/14
U/S 24 of Hindu Marriage Act

Order No.32 dt.14.01.19

Both parties file hazira. Record is taken up for passing necessary order. Hearing arose out of the application U/s 24 of Hindu Marriage Act.

The instant application U/S 24 of the Hindu Marriage Act filed by the respondent/wife against the petitioner/husband praying for an amount of Rs. 10,000/- per month for the maintenance of the respondent/wife herself and Rs. 15,000/- for minor daughter and Rs.15,000/- towards litigation cost for the ends of justice.

The case of the respondent/wife, in short, is that she is the legally married wife of the petitioner/husband and their marriage had been solemnized on 08.02.08 as per Hindu Marriage Act. As per the case of the husband that the respondent/wife very often used to pick up quarrel over the flimsiest issue and petty matter and they are living separately. Subsequently, the petitioner/husband filed this Matrimonial Suit U/s 13(1)(ia)(ib) of the Hindu Marriage Act against her, praying for a decree of divorce. The petitioner on receipt of the notice appeared before the Court and filed a petition U/S 24 of the Hindu Marriage Act praying for an amount of Rs. 10,000/- per month for the maintenance of the respondent/wife herself and Rs. 15,000/- for minor daughter and Rs. 15,000/- towards litigation cost. The petitioner/husband contested the application by filing written objection. The respondent/wife contended that her husband earns Rs.70,000/- per month and subsequently the said prayer has been amended and it was stated that husband earns Rs.1,50,000/- per month and he has Rs.60,00,000/- in the Post Office and gets interest from it and the respondent/wife has prayed Rs.60,000/- per month for herself and Rs.30,000/- for her minor daughter.

It is contended by the petitioner/husband that respondent/wife has filed an application U/s 125 of Cr.P.C inter alia praying for maintenance and the petitioner/husband is paying monthly interim maintenance of Rs.3000/- for the respondent/wife and he also paying Rs.7000/- for entire school fees for his daughter Erina Sikdar. It is also contended by the petitioner/husband that he does not earns Rs.1,50,000/- per month and he further states that he got employment for 6 months and he also files income tax return. During the course of hearing the petitioner/husband has produced the copy of income tax return for assessment year 2017-18 and as per income tax return his gross income is Rs.1,87,615/- in a year and as per certificate issued by Lalkar Marine Pvt. Ltd. that Mr. Chandan Sikdar has been working on Board as repairment on purely contractual basis for 5 to 6 months in a year and he earned approx Rs.2,05,280/- for the financial year 2017-18. The respondent/wife did not produce any document regarding income of petitioner/husband. Thus from the documents as produced by the petitioner/husband it appears to me that the petitioner/husband earns

Rs.2,05,280/- per year. Be it pertinent to mention here that the earning of the petitioner/husband goes to show only for 6 months as an employee of Lalkar Marine Pvt. Ltd. The petitioner/husband being able body person has income for the rest 6 months.

It is contended by the respondent/wife that she is now residing along with her minor daughter at the first floor at her matrimonial house and she has no income. As per contention of the petitioner/husband that the respondent/wife Tuli Sikdar is working as a Asa of Haripal Block and her honorarium is Rs.2000/- per month and the petitioner/husband produced some documents after obtaining some information under RTI Act.

The Hon'ble HIGH COURT AT MADRAS in Amutha @ Symaladevi : vs K.Thirumoorthy @ Thirumalaisamy The cause of action for filing a petition under Section 24 of the Act would arise only when there is a matrimonial proceeding initiated by the husband or wife. Therefore, the primary requirement for claiming maintenance under Section 24 of the Act is the pendency of a matrimonial proceeding. This provision was introduced with a laudable object of ensuring maintenance to a party to the proceeding so as to enable him or her to maintain during the pendency of such proceedings. This provision also permits the Court to award reasonable amount for the purpose of conducting the matrimonial proceeding.

Heard the Ld. Lawyers of both sides and perused the materials on record. The respondent/wife, in the instant case, has prayed for Rs. 60,000/- per month towards her pendentilite alimony and maintenance of Rs.30,000/- for her minor daughter and Rs. 15,000/- towards litigation cost. The petitioner wife has stated that her husband is engaged in Marine but she failed to produce any document regarding income of her husband. On the contrary the petitioner/husband produced the document regarding his income and thus I find there is no reason to disbelieve the contention of the petitioner/husband. If that been so I can hold that the husband/petitioner earns Rs.2,05,280/- per year as an employee for 6 months. In such circumstances I am in considered view that a sum of Rs. 5000/- which appears to be sufficient towards the pendentelite for the respondent/wife and Rs. 5000/- towards the litigation cost will meet the demand of justice. The amount of Rs.5000/- for the maintenance of the petitioner/wife is to be paid by the O.P./husband to the respondent/wife within 7th day of every succeeding English Calendar month. As per materials on record there is another case U/s 125 of Cr.P.C prying for maintenance for the petitioner and her minor daughter. Respondent/wife is at liberty to place her prayer in respect of her minor daughter before the proper forum for maintenance of the minor daughter.

Hence; it is

ORDERED

that the petition U/s 24 of Hindu Marriage Act be and the same is allowed in part but without cost.

The O.P./husband is directed to pay a sum of Rs. 5000/- per month to the respondent/wife towards her pendente lite and the litigation cost of Rs. 5000/- for the present until further orders. The amount paid in view of order passed by the Ld. Magistrate in case of maintenance be adjusted. The amount of Rs.5000/- for the maintenance of the respondent/wife is to be paid by the petitioner/husband within 10th days of every Succeeding English Calendar month.

To 09.04.19 for reconciliation.

Dictated & corrected by me

Addl District Judge,
Fast Track Court, Chandernagore
Hooghly

Addl. District Judge
Fast Track Court, Chandernagore
Hooghly