

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1875 OF 2010  
(@ S.L.P.(C)No.16108 of 2009)

Shireen K. Grewal ...Appellant

VERSUS

Capt. Kulwant Singh Grewal ...Respondent

O R D E R

Leave granted.

This appeal is directed against order dated 12.6.2009 passed by the learned Single Judge of Bombay High Court in Writ Petition No.7245 of 2008 filed by the respondent whereby she modified the order of the Family Court and issued the following directions:

(i)The petitioner shall pay to the respondent interim maintenance at the rate of Rs.30,000/- per month, and shall provide a suitable residential accommodation to the respondent and their son close to where they are now living and shall pay the monthly rent for the same.

(ii)The petitioner herein will bear all expenses of Triveni Singh relating to his education including tuition fees, term fees, etc. and all other school activities. This will include expenses towards books, uniforms, etc.

(iii)The petitioner shall also pay Rs.15,000/- per month as maintenance for Triveni Singh.

(iv)The respondent will bear all expenses relating to

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extra curricular activities in which Triveni Singh participates, which are not organized by or in the school.

(v)The respondent shall furnish bills in respect of expenses mentioned in clause (ii) i.e. School expenses, etc. to the petitioner so that he is able to pay for the same as directed by the school.

We have heard learned counsel for the parties and carefully perused the record. The appellant and respondent were married in February 1993. A child (Triveni Singh) was born to them in March 2001. After 13 years of marriage, the

respondent filed M.J. Petition No. 85/2006 for restitution of conjugal rights. He also applied for permanent custody of the child. Soon thereafter, the appellant filed M.J. Petition No. A-25/2006 for grant of divorce. She also filed an application for interim maintenance for herself and son by stating that the respondent's total emoluments during the financial year 2004-2005 were Rs.47 lacs and he is leading a luxurious life in Mumbai. The respondent contested the application by asserting that the appellant had independent source of income. After considering the respective pleadings and documents produced by the parties, the Family Court vide its order dated 23.2.2007 directed the respondent to pay maintenance to the appellant @ Rs.50,000/- per month and Rs.20,000/- per month

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for the minor child.

The respondent challenged the aforesaid order in Writ Petition No.3632 of 2007. He filed another writ petition bearing No.3635 of 2007 questioning dismissal of his application for permanent custody of the child. By an order dated 31.1.2008, the learned Single Judge disposed of both the petitions by giving liberty to the respondent to apply for modification of the order granting interim maintenance and also for review of his request for permanent custody of the child. Thereafter, the respondent filed an application for modification of order dated 23.2.2007. The appellant contested the respondent's prayer and pleaded that he may be directed to pay maintenance @ Rs.70,000/- per month. The Family Court disposed of the application filed by the respondent and directed him to pay Rs.50,000/- per month to the appellant and Rs.20,000/- per month towards maintenance of the minor child.

The respondent challenged order dated 28.8.2008 passed by the Family Court in Writ Petition No.7245 of 2008 which has been disposed of by the impugned order.

There is no serious dispute between the parties on the quantum of gross income of the respondent who is serving as a Commander in Air India.

During financial year 2004-2005

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his total emoluments were Rs.47 lacs.

For the assessment year

2006-2007 his total income was Rs.60 lacs. The entries contained in Form 16 issued by the competent authority shows

that for the period from 1.4.2008 to 31.3.2009, the respondent's gross income was Rs.68,40,192/-.

Mrs. Rekha Palli, learned counsel for the respondent made strenuous efforts to convince us that the amount reflected in the income

tax returns, assessment orders and salary certificate cannot

be made basis for awarding maintenance to the appellant by

ignoring that a portion of the gross income is deducted towards income tax and he has to spend substantial amount

during his stay abroad and for maintaining his aged mother.

Learned counsel also pointed out that the appellant has sufficient income to maintain herself and her child and

submitted that the impugned order does not suffer from any

legal infirmity warranting interference under Article 136 of

the Constitution.

We have considered the respective submissions.

Even

though, the learned Single Judge rejected the respondent's

plea that he was earning Rs.53,000/- per month but she reduced

the amount of maintenance awarded by the Family Court only on

the premise that he has shown willingness to bear the expenses

of child's education and other school related activities.

In

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our view, the High Court was not at all justified in interfering with a well considered and well reasoned order

passed by the Family Court granting maintenance to the appellant and the child at the rate of Rs.50,000/- and

Rs.20,000/- per month.

The salary certificate and tax returns

of the respondent show that he has sufficient means to provide

maintenance to the appellant and the minor child.

Therefore,



Ms. Prerna Priyadarshini, Adv.  
Mr. Saurav Mishra, Adv.  
Mr. Kush Chaturvedi, Adv.  
For Mr. Vikas Mehta, A.O.R.

For Respondent(s) Mrs. Rekha Palli, Adv.  
Mr. A.V. Palli, Adv.  
Mr. Atul Sharma, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

In terms of signed order, the appeal is allowed. The impugned order is set aside and the one passed by the Family Court is restored. The respondent

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shall start paying maintenance to the appellant and the child in terms of the order passed by the Family Court with effect from 1.3.2010. He shall also pay the arrears in five equated instalments in a maximum period of one year and six months from today. If the respondent fails to pay the amount in terms of this order, he will himself make liable under Contempt of Courts Act, 1971.

(A.D. Sharma) ( Phoolan Wati Arora)  
Court Master Court Master  
(Signed Order is placed on the file)