

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).16727/2006

(From the judgement and order dated 11/07/2006 in FAO No.409/1999
of The HIGH COURT OF DELHI AT N. DELHI)

JAGDISH LAL

Petitioner(s)

VERSUS

LALITA RANI & ORS

Respondent(s)

(With prayer for interim relief and office report)

Date: 30/07/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE P.P. NAOLEKAR

For Petitioner(s) Mr. K.V. Viswanathan,Adv.
Mr. Venkat Subramanian T.R.,Adv.
Mr. V.K. Sidharthan,Adv.

For Respondent(s) Ms. Rajni Singh,Adv.
Ms. Neelam Sharmma,Adv.
Mr. Sudhir Nandrajog,Adv.

UPON hearing counsel the Court made the following
ORDER

Heard learned counsel for the parties.

Leave granted.

The appeal is allowed in-part.

No costs.

[Alka Dudeja] [Om Prakash]
Court Master Court Master
[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3360 OF 2007
(Arising out of S.L.P. (C) No.16727 of 2006)

Jagdish Lal

...Appellant(s)

Versus

Lalita Rani and Ors.

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

Leave granted.

The Trial Court by order dated 6th July, 1999, directed the husband to pay maintenance for the wife and two children at the rate of Rs.3,500/- per month. Against the said order when the wife and children preferred an appeal before the High Court, the same has been modified and it has been directed that the husband shall make payment towards maintenance at the rate of Rs.7,000/- per month instead of Rs.3,500/- from 1st August, 1999 to 31st August, 2002. Further direction has been given to pay maintenance at the rate of Rs.8,500/- per month instead of Rs.3,500/- from 1st September, 2002 to 31st August, 2004 and from 1st September, 2004 till the date of passing of the impugned order by the High Court on 11th July, 2006, at the rate of Rs.10,000/- per month instead of Rs.3,500/-. Against the said order, the present appeal has been filed by special leave.

Undisputedly, the take home salary of the appellant is Rs.13,173/- per month. Having taken into consideration, all the pros and cons of the matter, we are of the view that the High Court was quite justified in giving a direction for

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making payment at the rate of Rs.10,000/- instead of Rs.3,500/- per month, but it was not justified in giving a direction for payment of arrears of amount of maintenance at the enhanced rates keeping in mind the financial position of the husband. There is nothing to show that apart from salary income, the husband had any other source of income.

This being the position, the appeal is allowed in-part and the directions in paragraph 19 of the impugned order are modified as follows:

The husband is not required to pay maintenance at the enhanced rate, as directed by the High Court from 1st August, 1999, to July, 2006. So far as the amount of maintenance from August, 2006 is concerned, he is directed to pay the same at the rate of Rs.10,000/- per month instead of Rs.3,500/- per month. We have been told that payments are being made at the rate of Rs.3,500/- per month. This being the position, the husband is directed to pay the enhanced amount of arrears of maintenance at the rate of Rs.6,500/- per month from August, 2006, to July, 2007, within two months from today and he shall go on making payment at the rate of Rs.10,000/- per month from August, 2007 by the 15th day of the following month, i.e., the amount of maintenance for the month of August, 2007, must be paid by 15th September, 2007, and likewise for every subsequent month. The husband is directed to file undertaking before this Court within four weeks from today to the effect that directions aforementioned shall be complied with within the time schedule.

No costs.

.....J.
[B.N. AGRAWAL]

.....J.
[P.P. NAOLEKAR]

New Delhi,
July 30, 2007.