

IN THE COURT OF MS. MADHU JAIN
ADDL. DISTRICT JUDGE
ROHINI COURT : DELHI

M No. 28/07

Sh. Neeraj Aggarwal – Petitioner

Vs.

Mrs. Veeka Aggarwal – Respondent

ORDER

1.. This is an order on application under Section 24 of Hindu Marriage Act filed by the applicant/ wife, respondent in the main case (hereinafter referred to as the applicant) against the non-applicant/ husband, petitioner in the main case (hereinafter referred to as the non-applicant) for grant of maintenance pendente lite and for litigation expenses.

2.. In the application it is stated that the applicant/ wife has no independent source of income and she is not given any kind of maintenance by the non-applicant/ husband to live her life properly and therefore she is facing much hardship in the life. The non-applicant/ husband has flatly refused to maintain her. The non-applicant/ husband is working in a private sector as a Senior Software Engineer HPC in STM Microelectronics Pvt. Ltd., Plot No.1 A, Knowledge Park-2 (near LG Gol Chakkar), Greater Noida and is earning about Rs. 80,000/-pm. He has no other liability and he is not discharging his responsibilities towards the applicant/ wife with ulterior motives to harass and humiliate the applicant/ wife. The applicant/ wife is the legally wedded wife of the non-applicant/ husband and, thus, being a husband, he is bound to maintain the applicant/ wife. The applicant/ wife is fully dependent on the mercy of her parents, who are having other liabilities also and she has no independent source of income to maintain herself. It is, therefore, prayed that the non-applicant/ husband be directed to pay a sum of Rs. 30,000/-pm as maintenance allowance pendente lite to the applicant/ wife and expenses of proceedings.

3.. The application has been contested by the non-applicant/ husband, who in his reply has stated that the applicant/wife is a well qualified graduate Engineer in the field of information Technology and just after the marriage she had joined the service of a private firm and was drawing a handsome salary as initially she was taking Rs. 5000/-pm. Now-a-days she is competent and qualified to earn thousands of rupees per month. She is a qualified trained engineer and she is self stand financially in all respects. The non-applicant/ husband has never neglected or refused to maintain her in any manner and she was duly maintained during her stay in her matrimonial home. The non-applicant/ husband is still ready and willing to provide financial assistance or maintenance if required or needed by her for any purpose in any manner. It is not denied that the non-applicant/ husband is also a qualified engineer and is employed in Greater Noida, U.P. but the actual amount of monthly salary being drawn by him is Rs. 45,000/-pm. It is stated that he has to maintain his retired father and ailing, diabetic mother and old grandmother and also to treat his two married sisters and to look-after his younger unmarried under-education sister of marriageable age as his younger sister is doing B.Ed. from a regular college. He is also paying loan premiums and other household expenses. The applicant/ wife has herself deserted her matrimonial home without any threats or atrocities caused to her by her in-laws and she is not returning to her matrimonial home despite the petition for restitution of conjugal rights filed by the non-applicant/ husband. It is stated that the non-applicant/ husband is publicly and openly as well as warmly welcoming the applicant/ wife to her matrimonial

home but she has started demanding maintenance sitting in her parental home to feed her greedy parents and selfish relatives instead of returning to her matrimonial home and to assist the non-applicant/ husband and her other in-laws in her matrimonial home at the time of need. It is stated that the conduct, attitude and nature of the applicant/ wife is of such type that she is not entitled for any maintenance. Further more, she has also filed a separate petition U/s 125Cr. P.C. for maintenance only with a view to get the non-applicant/ husband harassed in a criminal court. It is stated that the applicant/ wife is not a helpless or poor lady and she is not incapable to maintain herself as she is a well qualified engineer and is already an earning hand. She is handing over all her income to her parents. She does not require any monetary assistance from the non-applicant/ husband as she is already having a good bank balance in State Bank of Bikaner & Jaipur at Rohini, Sector-5, Delhi , bearing A/c No. 61005521399 and several other bank accounts also. She also has some immovable properties in her name. It is denied that she requires Rs. 30,000/- as maintenance and other charges as prayed. It is, therefore, prayed that the application be dismissed with heavy cost.

4.. I have heard the Ld. Counsel for both the parties and have carefully perused the record.

5.. During the course of arguments it has not been denied by the Counsel for the applicant/ wife that the applicant/ wife herself is an engineer graduate in the field of Information Technology. Ld. Counsel for the applicant/ wife submitted that the applicant/ wife submitted that the applicant/ wife joined the job for some time after the marriage but thereafter due to the marital disputes she is not in a position to pursue her job and has left the same. In her entire application the applicant/ wife has nowhere stated that she is also an engineer graduate in the field of Information Technology and that she also joined the job after her marriage. Those seeking justice and equity from the Court must come to the court with clean hands. It seems that for obvious reasons and to extract money the applicant/ wife has not disclosed her true qualifications in the Court. The applicant/ wife is an engineer graduate and, therefore, can very well maintain herself and there is no need for her to depend upon the mercy of her parents or on the non-applicant/ husband. The purpose of Section 24 of H.M. Act is not to extract money from the other party and the court should not be a forum to extract the money or to blackmail the other party. In II (2000) DMC 170 titled as Mamta Jaiswal Vs. Rajesh Jaiswal, the Hon'ble Madhya Pradesh High Court has observed as under:-

“Section 24 – Pendente Lite Alimony : Purpose of Enactment : Not meant for supporting idle (Qualified) spouses waiting for ‘Dole’ to be Awarded by her husband – Section 24 has been enacted for purpose of providing monetary assistance to such spouse who is incapable of supporting himself/ herself in spite of sincere efforts – Spouse well qualified to get service immediately with less efforts is not expected to remain idle to squeeze out his/her purse by cut in nature of pendent elite alimony – Wife well qualified woman possessing qualification like M.Sc., M.C. M.Ed – How can such a lady remain without service – lady who is fighting matrimonial petition filed for divorce, cannot be permitted to sit idle and put her burden on husband for demanding – pendente lite alimony from him during pendency of matrimonial petition.”

6.. In I (2001) DMC 19 titled Sangitaben Rasiklal Jaiswal Vs. Sanjay Kumar Ratilal Jaiswal, Mehsana, the Hon'ble Gujarat High Court has held that the wife is entitled for Free Legal Aid and therefore, the Court should keep in mind that wife is entitled for free legal services also.

7.. In the present case the applicant/ wife is a well qualified engineer and, therefore, there is no need for her to sit idle at home waiting for the maintenance from the non-applicant/ husband. In the peculiar facts and circumstances of the case since the applicant/ wife is well qualified and, therefore, can earn handsome amount by working and there is no need for her to be financially dependent upon her parents or on the non-applicant/ husband, she is not entitled for any maintenance. While hearing

arguments on the application it was ordered that the maintenance shall be granted to the wife till the disposal of the petition. This sentence in order sheet dated 27.08.2007 only means that the wife is entitled for the maintenance from the date of filing of the application till the disposal of the main petition and not thereafter. It no where reflects that the wife shall be entitled to maintenance I every case come what may.

8.. Therefore, in view of the above said discussion, the application U/s 24 Hindu Marriage Act of the applicant/ wife is dismissed. There shall be no orders as to cost. File be consigned to Record Room.

Announced in Open Court

Dated : 19.09.2007