

CASE NO.:
Appeal (civil) 2606 of 2004

PETITIONER:
Narinder Pal kaur Chawla

RESPONDENT:
Manjeet Singh Chawla

DATE OF JUDGMENT: 21/04/2004

BENCH:
Shivaraj V. Patil & D. M. Dharmadhikari.

JUDGMENT:
J U D G M E N T

O R D E R

Leave granted.

Heard the petitioner in person and learned counsel appearing for the respondent. We have also perused the counter affidavits and rejoinders along with the written submissions filed by the parties.

The present appeal arises out of an interim order dated 11.1.2002 passed by the learned Single Judge of the High Court of Delhi in the course of proceedings instituted by the present appellant claiming to be the second wife of the respondent for grant of maintenance to her under section 18 read with section 20 of the Hindu Adoption and Maintenance Act [for short the Act]. The learned Single Judge on the original side of the High Court in the pending proceeding under the Act has by order dated 11.1.2002 granted an interim maintenance of Rs. 400/- per month to the wife.

The wife appealed to the Division Bench of the High Court. By order dated 25.7.2003 which is the subject matter of this appeal, the interim maintenance has been increased to Rs.700/- per month. Not satisfied with the increase in the amount of interim maintenance granted by the Division Bench, the wife has approached this Court seeking further enhancement of rate of interim maintenance.

By this appeal, interim maintenance @ Rs. 12,000/- per month has been claimed on the ground that the respondent/husband has taken voluntary retirement from the Bank's services and has received substantial amount of retiral benefits. It is stated that he is possessed of valuable properties and assets which are sufficient to pay higher amount of maintenance to the wife to enable her to maintain a reasonable standard of living to which the parties are accustomed.

The husband is contesting the maintenance proceeding both on the ground of competence of the present wife to claim maintenance and the quantum.

Normally, this Court would not have entertained this appeal as it is directed against an order fixing only interim maintenance pending adjudication of claim of maintenance by the wife under the Act. On the prima facie evidence with regard to the social and financial status of the parties, this Court finds that interim maintenance of Rs. 700/- per month fixed by the Division Bench of the High Court is extremely low. Therefore, after notice issuing on the Special Leave Petition, this appeal is entertained.

Before the High Court, it appears that at one stage, reconciliation efforts were made in which the husband had agreed to provide second floor of the accommodation owned by him for separate residence of the wife with Rs. 1,500/- per month as permanent alimony to her during her life. Efforts of reconciliation, however, failed as at a later stage, the wife backed out. The copies of orders passed by the Division Bench of High Court on 13.2.2003 and 17.2.2003, in the course of reconciliation proceedings, have been produced by the parties in this appeal.

As the legal right of the second wife to claim maintenance under the Act and its quantum are hotly contested issues in the main case, we refrain from expressing any opinion on merit of the claims and contentions of the parties. For the purpose of fixing appropriate amount of interim maintenance, we may assume that the financial position of husband is such that he can easily pay a sum of Rs.1,500/- per month as interim maintenance without disturbing the right of separate residence provided to the wife at the second floor of the husband's premises.

The appeal, therefore, is partly allowed by increasing the amount of interim maintenance to Rs. 1,500/- per month which shall be payable at the above rate from the month of May, 2004 until decision of the main case pending under the Act on the original side of the High Court. It is made clear that the High Court shall decide the main case on merits uninfluenced by orders passed for fixing interim maintenance.

In the circumstances, there shall be no order as to costs in this appeal.