

Court No. - 39

Case :- FIRST APPEAL DEFECTIVE No. - 279 of 2023

Appellant :- Santosh Kumar

Respondent :- Gayatri Devi

Counsel for Appellant :- Kartikeya Saran,Suchita Mehrotra

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Rajendra Kumar-IV,J.

Civil Misc. Delay Condonation Application No. 01 of 2023

1. Heard Ms. Suchita Mehrotra learned counsel for the appellant through Video Conferencing.
2. Present appeal is being presented with some delay.
3. Considering the explanation furnished, same is found to be satisfactory. Delay is accordingly condoned.
4. Delay condonation application is allowed.
5. Office to allot regular number to the appeal, subject to other deficiency, if any, being removed.

Order on Appeal

6. Heard Ms. Suchita Mehrotra learned counsel for the appellant through Video Conferencing.
7. Present appeal has been preferred by the appellant against the order dated 09.2.2023 passed by the Principal Judge Family Court, Jhansi in Case No. 210 of 2023 (Smt. Gayatri Devi Vs. Santosh Kumar). By that order passed under Section 24 of the Hindu Marriage Act, 1955 learned court below has provided for interim maintenance to the respondent @ 7,000/- per month from the date of her filing that application i.e. 08.11.2021; one time legal expense Rs. 5000/- and Rs. 400/- per day towards personal expense.

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8. Having heard learned counsel for the appellant (Through Video Conferencing) and having perused the record, it does appear that the appellant had filed documentary proof of his salary payment being not in excess of Rs. 16,500/- that too in the year 2023. Earlier, that payment was about Rs. 15,470/-. Further, considering that there are no children born from the marriage, it does appear that the learned court below has erred in awarding nearly 50% of the total monthly income of the appellant, towards interim maintenance.

9. At the same time, certain minimum amounts have to be provided to ensure protection of life, liberty and dignity of the opposite party who is wife of the appellant involved in a estranged marriage situation. So long as that marriage survives, it remains a duty of the earning spouse to protect life, liberty and dignity of the other.

10. Seen in that light, we are of the view that the amount Rs. 5000/- per month towards interim maintenance to the opposite party from the date of her filing of application would be sufficient to protect the interest of justice. At the same time, we find no ground to interfere with the award of one time legal expense and daily personal expense.

11. In view of the above, we **dispose of** the appeal with the following directions:

(i). The amount of interim maintenance @ 7000/- per month awarded by the order impugned in the present appeal is modified to Rs. 5000/- per month. The remaining amount of one time legal expense Rs. 5000/- and daily expense Rs. 400/- per day are maintained.

(ii)The appellant shall continue to pay the monthly maintenance amount for the month September 2023 onwards. For that, amount of interim maintenance for September 2023 may be

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paid on or before 30 September 2023. The monthly interim maintenance from October, 2023 onwards may be paid as and when it becomes due.

(iii) The appellant may also deposit amount of one time legal expense Rs. 5000/- by 15 October 2023.

(iv) For the arrears 1,10,000/-, the appellant may deposit the same in three installments such that Rs. 30,000/- shall be deposited by the appellant with the learned court below by 31 October 2023. Rs. 40,000/- each shall be deposited by the appellant by 30 November 2023 and 31 January 2024. The amount so deposited shall be released in favour of the opposite party forthwith.

12. Subject to such compliance being made by the appellant, it is further provided that the learned court below may ensure that the proceedings instituted by the appellant under Section 9 of the Hindu Marriage Act, 1955 being case No. 676 of 2021 (Santosh Ahirwar Vs. Smt. Gayatri Devi) be concluded as expeditiously as possible, preferably on or before 31 January 2024.

13. Before parting, we must record our appreciation for Ms. Suchita Mehrotra who has made extra efforts to appear in the matter and pursue the proceedings instituted by her client by appearing through Video Conferencing.

Order Date :- 12.9.2023

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(Rajendra Kumar-IV, J.) (S. D. Singh, J.)