

Before : S. S. Sodhi, J.

RAJINDER KAUR (SMT.),—Petitioner.

versus

ATTINDERJIT SINGH,—Respondent.

Civil Revision No. 16 of 1989.

10th March, 1989.

Hindu Marriage Act, 1955—S. 24—Wife's prayer for maintenance pendente lite and litigation expenses—Prayer cannot be disallowed on the basis of allegations in the pleadings—Trial Court declining prayer on ground of allegations of wife's gross misbehaviour and infidelity is unwarranted—Wife is entitled to relief without reference to pleadings.

Held, that proceedings under Section 24 of the Hindu Marriage Act, 1955 provide neither the occasion nor the stage for the court to enquire into the veracity or the weight to be attached to allegations in the pleadings of the parties. To go into such allegations would clearly introduce extraneous considerations or amount to pre-judging the main issue.

(Para 1)

Petition under section 115 C.P.C. for revision of the order of the court of Shri K. S. Garewal, Additional District Judge, dated 16th November, 1988, dismissing the application u/s 24 of the Hindu Marriage Act.

CLAIM : Application for maintenance pendente lite and for expenses of proceedings under section 24 of Hindu Marriage Act, 1955.

Petition u/s 13 of Hindu Marriage Act, 1955 for dissolution of marriage by a decree of divorce.

CLAIM IN REVISION : For reversal of the order of the lower court. C.M. NO. 6-M OF 1989

Application under Section 24 of Hindu Marriage Act, 1955 praying that a sum of Rs. 2,000 may be granted as litigation expenses for contesting the above noted revision petition in this Hon'ble High Court.

Ram Singh, Advocate, for the Petitioner.

Des Raj Mahajan, Advocate, for the Respondent.

ORDER

(1) The challenge in revision here is to the order of the trial court declining the wife's prayer for maintenance pendente lite and

expenses of litigation under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'), on the ground that the husband's petition for divorce involved serious allegations of gross misbehaviour and infidelity" with of course the rider "however, if later the allegations of Atinderjit Singh are found to be baseless or without foundation, Rajinder Kaur can be compensated with costs."

This denotes a grossly misconceived and fallacious approach to the matter in issue. Proceedings under Section 24 of the Act provide neither the occasion nor the stage for the court to enquire into the veracity or the weight to be attached to allegations in the pleadings of the parties. Indeed, to go into such allegations would clearly introduce extraneous considerations or amount to pre-judging the main issue.

(2) As a plain reading of the provisions of Section 24 of the Act would show either party, i.e., husband or the wife as the case may be, having no independent means, sufficient for its support and necessary expenses of the proceedings, may seek maintenance *pendente lite* and expenses of the litigation thereunder. It is to these matters that the court has to address itself when dealing with such an application.

3. The impugned order cannot, therefore, but be held to be patently unwarranted and wholly perverse. It is accordingly hereby set aside, and the wife is granted Rs. 1,000 as costs of the litigation in this Court.

(4) Interests of justice also render it incumbent that the case now be transferred to another court for disposal. It is accordingly ordered to be transferred to the court of Mrs. Bakshish Kaur, Additional District Judge, Amritsar and the parties are directed to appear before her on April 3, 1989.

R.N.R.

Before : J. V. Gupta, A.C.J. & M. S. Liberhan, J.
PRITAM SINGH AND ANOTHER,—Petitioner.

versus

SUNDER LAL AND OTHERS,—Respondents.

Civil Revision No. 1157 of 1987

25th April, 1990.

Code of Civil Procedure, 1908—S. 115, O. 26 rl. 9—Order declining appointment of local Commissioner—Order neither decides an issue