

SUPREME COURT OF INDIA

Sanjeev Gupta

Vs.

Shalini Gupta

C.A.No.1163 of 2009

(B.N. Agrawal and G.S. Singhvi JJ.)

23.02.2009

ORDER

Leave granted.

1. During the pendency of H.M.A. Case No.158 of 2003 instituted by the appellant under Section 9 of the *Hindu Marriage Act, 1955* [for short, 'the Act'], the respondent filed an application under Section 24 of the Act for interim maintenance.

2. By an order dated 22nd May, 2004, District Judge, Yamuna Nagar, directed the appellant herein to pay interim maintenance to the respondent at the rate of Rs.750/- per month, apart from Rs.1,100/- as litigation expenses. The respondent challenged that order by filing a petition under Article 227 of the Constitution of India. By the impugned order, the High Court directed the appellant to pay Rs.5,000/- per month to the respondent as interim maintenance. The High Court also enhanced the litigation expenses from Rs.1,100/- to Rs.10,000/-.

3. We have heard learned counsel for the parties.

4. A reading of the order under challenge shows that even though the respondent did not produce any evidence about the income of the appellant, the High Court enhanced the interim maintenance by assuming the appellant's income is Rs.15,000/- per month. Learned counsel appearing on behalf of the respondent could not show that there was any material for enhancing the maintenance. Therefore, we hold that the High Court was not justified in enhancing the amount of maintenance.

5. Accordingly, the appeal is allowed and the impugned order passed by the High Court is set aside.