Bench: T Chatterjee, H Dattu

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1789-1790 OF 2009

(Arising out of SLP(C) NOS. 24589-24590 of 2007) Anu Kaul ..... Appellant Versus

Rajeev Kaul .....Respondent ORDER

Leave granted.

2) In the appeal filed by the respondent-husband before the High Court of Punjab and Haryana, being aggrieved by the judgment and decree passed by Addl. District Judge (Ad-hoc), Fast Track Court No.3, Faridabad, dated 04.06.2005, the appellant herein had filed an application under Section 24 of Hindu Marriage Act, 1955, for the grant of interim maintenance of Rs. 10,000/- (Rupees Ten Thousand only) and the litigation expense of Rs. 22,000/- (Rupees Twenty Two Thousand only). The application is partly allowed by the Court by its 1

order dated 23.08.2006, by granting an amount of Rs.10,000/- towards litigation expense and a sum of Rs.2,000/- for the maintenance of the minor child living with her. The Review Petition is also dismissed by the Court vide its order dated 21.03.2007, leaving it open to the appellant/applicant to claim interim maintenance before an appropriate forum in the capacity as a Guardian of the child.

3) Challenging both the orders, the appellant-wife is before us in these appeals.

4) Though notice of special leave petition is served on the respondent- husband, for the reason best known to him, has not entered appearance either in person or through his counsel. 5) Marriage between the parties and birth of the female child Karmistha Kaul is not in dispute. The assertion of the appellant in the application filed under Section 24 of Hindu Marriage Act, 1955 that the respondent is working as a Senior Head of Mukund Steel Ltd., having its head office at Mumbai and drawing a salary of Rs.40,000/- per month and is entitled to claim perks for the education of his children was not denied by the respondent by filing his counter affidavit or reply statement.

2

6) In the application filed, the appellant admits that she is employed and drawing a salary of Rs.9,000/- per month. However, she asserts, she has to pay an amount of Rs.3,000/- by way of rent to the tenanted premises which she is presently occupying in view of the lis between the parties. She has also stated, that, Kumari Karmisatha Kaul is now grown up and she is studying in Senior School and due to insufficient funds, her education is being hampered.

7) A sermon on moral responsibility and ethics, in our opinion for disposing of this appeal may not be necessary, since the respondent has not disputed the assertion of the appellant. However, since the appellant is employed and is drawing a salary of Rs.9,000/- per month, we do not intend to enhance the interim maintenance awarded to her by the High Court during the pendency of the appeal filed by the husband. However, taking into consideration the child being the daughter of highly placed officer, the exorbitant fee structure in good Schools and the cost of living, we deem it proper to direct the respondent to pay a sum of Rs.5,000/- per month to the applicant commencing from 1st of April, 2009 for the maintenance of the minor child during the pendency of the appeals before the High Court. 8) The appeals are disposed of accordingly. 3

.....J. [TARUN CHATTERJEE]

.....J. [H.L. DATTU]

New Delhi,

March 23, 2009.

4