

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.2580 OF 2009
(Arising out of S.L.P. (C) No.10847 of 2006)

Medha Ashok Panchabhai

...Appellant(s)

Versus

Ashok Atmaram Panchabha

...Respondent(s)

O R D E R

Leave granted.

The appellant and respondent were married on 7.2.1988 and a daughter, who was, later on, named as Aditi, was borne to them on 7.3.1993. After nine years of the marriage, the appellant filed a petition under Section 13(1) (i-a) of the Hindu Marriage Act, 1955 (for short, 'the Act') for grant of divorce. She pleaded desertion and cruelty as the grounds for divorce. The respondent denied all the allegations and pleaded that the appellant had deserted her and caused mental cruelty. The Trial Court framed three issues, two of which related to desertion and cruelty. After considering the evidence produced by the parties, the Trial Court decided the issues of desertion and cruelty against the appellant but granted divorce on the ground that both the parties were desirous of dissolving the marriage and relations between them were such that there was no possibility of reunion in

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future. Accordingly, the Trial Court allowed the petition filed by the appellant and passed a decree of dissolution of marriage with a direction to the respondent to pay lumpsum amount of rupees thirty thousand to the appellant towards permanent alimony under Section 25 of the Act for herself and her daughter Aditi.

Feeling aggrieved by the findings recorded by the Trial Court on the issues of desertion and cruelty, the appellant filed an appeal which was partly allowed by the 5th Addl. District Judge, Nashik. The Appellate Court held that the respondent had subjected the appellant to cruelty but confirmed the finding recorded by the Trial Court on the issue of desertion. The Appellate Court also set aside the direction given by the Trial Court regarding payment of rupees thirty thousand towards permanent alimony to the appellant and her daughter and held that the same would be confined to the appellant. The second appeal preferred by the appellant in the matter of permanent alimony was allowed by the High Court and it was declared that the petitioner shall be entitled to permanent alimony of rupees two thousand per month including the maintenance of minor daughter with effect from the date of application for divorce. Feeling dissatisfied, the appellant has filed this appeal by special leave.

Learned counsel for the appellant argued that permanent alimony granted by the High Court is very meager and the same is wholly insufficient for sustaining the appellant and her daughter. She fairly admitted that her client is receiving rupees one thousand five hundred per month by doing a temporary job but submitted that keeping in view the income of the respondent, the High Court should have awarded higher amount by way of permanent alimony.

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JUDGMENT

The respondent, who has appeared in person, stated that his present salary is rupees twelve thousand per month. He also gave out that after divorce, he has contracted second marriage and has a daughter from that marriage.

We have considered the respective submissions. Taking into the consideration the quantum of monthly earnings of the appellant and respondent as also the need of their respective families, we are of the view that it would be just and expedient to fix the quantum of permanent alimony payable to the appellant and her daughter at the rate of rupees four thousand per month.

Accordingly, the appeal is allowed in-part and the impugned order is modified by directing that respondent shall pay maintenance at the rate of rupees four thousand per month to the appellant and daughter from the date of filing the petition for divorce.

New Delhi,
April 13, 2009.

[B.N. AGRAWAL]

.....J.

[G.S. SINGHVI]

.....J.

JUDGMENT