

Supreme Court of India

Smt. Sneh Prabha vs Ravinder Kumar on 10 January, 1995

Equivalent citations: AIR 1995 SC 2170, (1996) 112 PLR 565, 1995 Supp (3) SCC 440

Bench: K Singh, B Hansaria, S Majmudar

JUDGMENT

1. This appeal is sequel to the proceedings for restitution of conjugal rights instituted by the respondent (husband) against the appellant (wife). The Trial Court granted decree for restitution of conjugal rights to the respondent. The appeal against the judgment and decree of the Trial Court was dismissed by the High Court.

2. This appeal is pending in this Court since 1979 and during that period efforts were made by this Court on several occasions to have the differences between the parties settled but with no success. At one point of time the parties had started living together as a result of conciliation by this Court and a daughter was born during that period but again they separated and there seems to be no chance of their living together. We have also tried to persuade the parties to live together, specially for the sake of their two grown up daughters, but there seems to be no possibility of their living together. Since the decree of restitution of conjugal rights has not been executed, the respondent has filed a divorce petition which is pending before the Trial Court at Chandigarh.

3. We have heard learned Counsel for the parties. We are satisfied that the marriage between the parties has irretrievably broken down. There is no chance of their living together. We, therefore, grant decree of divorce to the parties with immediate effect.

4. It is not disputed that the respondent owns house No. 1012, Sector 38-B, Chandigarh. The house is built on 7 1/2 (seven and a half) marlas of land. According to the respondent, he is getting rupees 1800/- per month as rent of the house. The respondent is a government servant and is drawing basic salary of rupees 2825/- plus dearness allowance and other allowances admissible to him under the rules. The couple have two daughters, namely, Bhawana Vaid, aged 28 years and Gargi Vaid, aged about 10 years. Both the girls are students. The appellant is working as teacher in a government school. She is drawing rupees 4,000/- per month as salary. We have given our thoughtful consideration to the facts of this case specially the financial position of both the parties. The two daughters are living with the appellant and she has to bear the education and other expenses to support the girls. She has also to save money for the marriage of the girls. Keeping in view these circumstances, we direct Ravinder Kumar (respondent) to pay a sum of rupees 4,000/- per month to the appellant for maintaining the two daughters. The maintenance amount of Rs. 4,000/- shall be paid by the respondent till the time both the girls are married or both of them are in a position to earn their livelihood. We give liberty to the girls to approach the District Judge, Chandigarh for further financial assistance from the respondent at the time of the marriage of any one of them. We also direct that the sum of rupees 4,000/- per month as maintenance awarded by us, shall be the first charge on the property described as house No. 1012, Sector 38B, Chandigarh owned by respondent Ravinder Kumar. The respondent shall not alienate or dispose of the property or create any encumbrance in respect of the said property without prior permission of the District Judge, Chandigarh. The amount of rupees 4,000/- shall be payable by the respondent to the

appellant from January 1,1995. It shall be paid before the 15th of each month in which the maintenance is due.

5. The appeal is disposed of. No costs.

6. The Divorce Petition No. 26 of 1978 filed by the respondent, Ravinder Kumar, pending before the District Judge, Chandigarh shall be deemed to have been disposed of in view of the decree of divorce granted by us. A copy of this order be sent to the District Judge, Chandigarh and also to the respondent by post.