

Equivalent citations: AIR 2005 Kant 417, ILR 2005 KAR 4981

Bench: K Manjunath

Dr. E. Shanthi vs Dr. H.K. Vasudev on 22/8/2005

ORDER

Manjunath, J.

1. Petitioner is the wife of the respondent. Both of them are Doctors by qualification. The respondent is working as a Medical officer in a Government Hospital. The respondent has filed a divorce petition in MC. No. 57/2001 on the file of the Family Court at Mysore. In the said proceedings, the petitioner filed an application under Section 24 of the Hindu Marriage Act claiming an interim maintenance of Rs. 5,000/ per month and litigation expenses of Rs. 50,000/-. The said application is dismissed by the Trial Court on the ground that the petitioner is also attending as a Doctor in "Hariharan Clinic", which according to the respondent is a very famous clinic in Chennai. This order is called in question in this writ petition.

2. According to the learned Counsel for the petitioner, the name of the petitioner appears on the board of Hariharan Clinic as one of the consulting Doctors and the said name appears along with her brother prior to marriage and even though she is not practicing as a Doctor, her name on the board continuous and therefore, petitioner is entitled for a separate maintenance.

3. Admittedly, petitioner is residing with her parents at Chennai and whose brother is also a doctor. When the petitioner was practicing prior to marriage, when her name continuous on the board of the clinic, the Trial Court is justified in rejecting the application of the petitioner. There is no difficulty for the petitioner to work as a Doctor. Even if the petitioner is not working as a doctor in the clinic of her brother, since there are no impediments for her to work along with her brother as a doctor and when she is capable of earning, this Court is of the opinion that the Trial Court is justified in rejecting the application of the petitioner. When the petitioner is capable of earning and having required qualification and that when she was working as a doctor prior to marriage, there cannot be any difficulty for her to continue the same profession. Therefore, Section 24 of the Hindu Marriage Act cannot come to the aid of such persons. Accordingly, this petition has to be rejected.

4. At this stage, learned Counsel for the petitioner submits that out of the Wed-lock parties have got a minor daughter who is studying in school. When the parties are having a daughter out of their wedlock, it is the responsibility of the father to maintain the child. Admittedly, the respondent is working as a Medical Officer at Chamarajanagar, considering his salary and the fact that he has to maintain his aged parents, this Court directs the respondent herein to pay a sum of Rs. 2,500/- per month from the date of filing of this petition before this Court to maintain the child. Accordingly, the petition is disposed of.