

ZAFFAR HUSSAIN---Petitioner

Versus

**ADDITIONAL DISTRICT JUDGE, TEHSIL ALIPUR DISTRICT
MUZAFFARGARH and 2 others-Respondents**

Writ Petitions No.1672 of 2011, decided on 14th February, 2011.

NASIR SAEED SHEIKH, J.---The petitioner Zaffar Hussain is aggrieved of the orders dated 9-7-2010 and 23-11-2010, respectively passed by the learned Judge Family Court and the learned Additional District Judge, Alipur, District Muzaffargarh, whereby an objection petition moved by the petitioner against the execution of a maintenance decree dated 25-10-2003, passed in favour of the respondent No.3, has been rejected and the appeal has also been dismissed.

2. Briefly stating the facts of the case are that the petitioner and the respondent No.3 are married inter se. A suit for the recovery of maintenance allowance was instituted by the respondent No.3 before the learned Judge Family Court; Alipur, District Muzaffargarh, which was decreed in favour of the respondent No.3 awarding her maintenance at the rate of Rs.500 per month from the institution of the suit till the subsistence of marriage or till the payment of dower of five tolas gold ornaments by the petitioner to the respondent No.3. The learned Judge Family Court also granted a decree for maintenance allowance in favour of two minor children, namely Naveed Hussain and Ali Hussain at the same rate of Rs.500 per-month till the minors attain the age of majority.

3. The respondent No.3 instituted an application dated 11-2-2010 for execution of the decree dated 25-10-2003 before the learned Judge Family Court.

4. During the pendency of the execution proceedings, the petitioner instituted an objection petition on 12-3-2010 contending that the petitioner as well as the respondent No.3 entered into a compromise as a result of which the parties started living together. The other objection raised by the petitioner was that the execution application has become badly time-barred.

5. This objection application was resisted by the respondent, No.3 by contending that although the parties started living together, but the petitioner failed to discharge his duties of paying the maintenance allowance to the respondent No.3 and the minor children and this compelled her to institute the execution proceedings.

6. The learned Judge Family Court/executing court vide order dated 9-7-2010 held that the execution proceedings can be entertained for the recovery of maintenance allowance for the previous three years from the date on which the execution proceedings have been instituted and thus allowed the execution proceedings to continue for the recovery of the previous three years maintenance allowance.

7. This order dated 9-7-2010 was further appealed against by the petitioner before the learned Additional District Judge, Alipur, who confirmed the order dated 9-7-2010, passed by the learned Judge Family Court through the appellate order dated 23-11-2010. Hence, this writ petition.

8. It is contended by the learned counsel for the petitioner that the execution application moved by the respondent No.3 for the execution of the judgment and decree dated 25-10-2003 has become barred by time. It is further contended that after the passing of the decree, a compromise was arrived at between the parties and that as a result of the compromise the parties started living together, therefore the execution of the judgment and decree dated 25-10-2003 cannot be sought by the respondent No.3 on account of the above eventuality.

9. I have considered the arguments of the learned counsel for the petitioner and have perused the record.

10. The learned counsel for the petitioner could not point out any provision of law on the basis of which the execution of the judgment and decree dated 25-10-2003 can be said to have become barred by time. A perusal of the judgment and decree, the contents of which have been re-produced at page 7 of the instant writ petition, points out that the respondent No.3 was allowed the maintenance allowance from the date of the suit till the subsistence of the marriage, whereas, the minor children were allowed maintenance from the date of institution of the suit till they attain the age of majority. This judgment and decree passed by the learned Judge Family Court is a continuing relief granted to the respondent No.3 and her children and cannot be said to have become time-barred on any ground. Merely because the parties lived together on the basis of some compromise does not absolve the petitioner from paying the maintenance to the respondent No.3 or the children, who have not been impleaded in the writ petition by the petitioner.

11. The petitioner is bound to pay the maintenance to the respondent No.3 and the minor children as per terms and conditions of the judgment and decree dated 25-10-2003. It is not the case of the petitioner that on the basis of compromise, the judgment and decree was set aside or any such compromise was got recorded before any court of law. The learned Judge Family Court thus was right in allowing the execution proceedings for the recovery of maintenance allowance to continue and the objection petition moved by the petitioner was rightly dismissed by the two courts below.

12. In view of the above, I am not persuaded to hold that the impugned orders passed by the two courts below are either illegal or are without lawful authority. The instant writ petition is without any substance and is DISMISSED in limine.

M.H./Z-20/L

Petition dismissed.