

MANU/RH/0966/2006

**Equivalent Citation:** 2006(47)CivilCC(RAJASTHAN), 2007(5)RCR(Civil)480

**IN THE HIGH COURT OF RAJASTHAN**

S.B. Civil Misc. Appeal No. 1887 of 2004

Decided On: 06.03.2006

Appellants: **Mst. Ripudaman Kaur**  
**Vs.**  
Respondent: **Satnam Singh**

**Judges/Coram:**

*P.C. Tatia, J.*

**Counsels:**

*For Appellant/Petitioner/Plaintiff: Mr. Shailendra Kala*

*For Respondents/Defendant: Mr. K.L. Maheshwari and Mr. Bhuvnesh Chhangani*

**Subject: Family**

**Acts/Rules/Orders:**

- Hindu Marriage Act, 1955 - Section 13-B,
- Hindu Marriage Act, 1955 - Section 25

**Disposition:**

Appeal Allowed

**JUDGMENT**

**P.C. Tatia, J.**

1. Heard learned counsel for the parties.

2. Learned counsel for the parties submits that an application under Section 13-B of the Hindu Marriage Act, 1955 was submitted by the appellant and respondents upon which the trial court granted decree for divorce on 11.11.2003 but while granting decree for divorce the Court has declared that till daughter of the appellant and respondent shall be minor, her maintenance will be born by the

appellant, mother of the daughter and thereafter daughter of the appellant respondent may claim maintenance from either her mother or from her father. According to the learned counsel for the appellant that declaration is beyond the jurisdiction of the Court under Section 13-B, in view of the fact that under Section 13-B of the Act of 1955 only decree for divorce can be granted. It is also submitted that as per Section 25 of the Act of 1955, the maintenance can be awarded for any of spouse. It is also submitted that no

application was submitted for getting maintenance for the minor girl, therefore, that declaration may be set-aside.

**3.** Learned counsel for the respondent submits that infact the respondent has paid the maintenance amount for the daughter as well as for the appellant, for which the respondent submitted an affidavit before the court below.

**4.** Learned counsel for the appellant submits that only maintenance for appellant was paid and not for the daughter. It is also submitted that the daughter is entitled to get the maintenance from the respondent in accordance with the law and for that purpose the appropriate steps may be taken by the appellant in time.

**5.** In view of the above facts since it is admitted case that the declaration of the trial court in the impugned judgment dated 11.11.2003 that Miss Anurit Kaur, daughter of the appellant respondent shall be maintained by the appellant till Miss Anurit Kaur attains majority and after attaining majority she will be entitled to claim maintenance from the appellant or respondent is set-aside. However, it is made clear that in case any application for maintenance of Miss Anurit Kaur is submitted, the same may be decided by the Court after taking into account all the facts and all the relevant evidence which may be produced by the parties in accordance with law.

**6.** In view of the above, the present appeal is allowed. The decree passed by the trial court dated 11.11.2003 is modified and the decree for divorce is maintained; The declaration for maintenance of Miss Anurit Kaur is set-aside.