

News

A maintenance petition cannot be barred by a settlement agreement, particularly if child maintenance is involved: Delhi High Court



The Delhi High Court also ruled that the child's right to demand maintenance from the father cannot be immediately disregarded.

The Delhi High Court noted that the parties' settlement agreement at the time of the divorce cannot be used as grounds to categorically declare that the **maintenance petition is unmaintainable**, particularly when it involves child support.

Additionally, it was noted that regardless of the reason or mode of divorce, a woman is automatically entitled to maintenance under Section 125 Cr.P.C.

Therefore, it is important to note that the maintenance petition was brought not only to obtain maintenance from Respondent No. 1 but also for and on behalf of the child, according to the Bench of Justice Neena Bansal Krishna. The Ld. Judge of the Family Court will decide whether the circumstances warrant paying the Respondents any maintenance. The 25.11.2021 Settlement Agreement between Respondent No. 2 and the petitioner cannot be used as justification for categorically declaring that the Maintenance Petition is unmaintainable, particularly where it pertains to child maintenance.

Advocate M. Sufian Siddiqui represented the Petitioners.

Case Brief

A request was made to have the maintenance order issued by the Family Court revoked. The parties reached a settlement after their marriage was dissolved through Talaq-e-Khula, in which the wife not only acknowledged that she had freely agreed to the dissolution of the marriage through Talaq-e-Khula, but also gave up all future and current maintenance claims, including those made during the iddat period.

In order to fully and definitively resolve all of her past, present, and future claims for alimony and maintenance, as well as those of her minor son, the wife was awarded Rs. 33 lakhs.

After that, the wife filed a maintenance petition, requesting Rs. 1,20,000 a month for both her and the child's upbringing.

The husband claimed that the Maintenance Petition was filed to annoy him, violate his legitimate parental rights, and undermine the sanctity of settlements, turning them into worthless documents and making the law a pointless tool. Additionally, it was argued that a divorced woman may only be eligible for additional maintenance if she could prove a significant change in circumstances after a complete and final settlement.

Court's Observation

The High Court was asked to decide whether the Maintenance Petition could be upheld in light of the Settlement Agreement.

The High Court emphasized that the husband has stated that a maintenance petition of this kind may be filed in the event of a change in circumstances, that the child's rights cannot be violated, and that these settlements have no bearing on the child's independent rights.

"The 25.11.2021 Settlement Agreement between the petitioner and Respondent No. 2 cannot serve as a foundation for categorically declaring that the Maintenance Petition is unmaintainable, particularly when it pertains to child maintenance," the Court stated.

Furthermore, the Court noted that once a wife is divorced, she is automatically entitled to maintenance under Section 125 Cr.P.C., regardless of the reason or manner of the divorce, while rejecting the Husband's argument that she was not entitled to any maintenance under Section 125(4) Cr.P.C. because she voluntarily took a divorce by Talaq-e-Khula.

The Court then ruled that it is impossible to ignore the fact that the kid has also requested support, which must once more be decided based on the particular facts and circumstances of this case. Consequently, it was determined that the Maintenance Petition should not be quashed in this particular situation.

Accordingly, the Petition was **dismissed**.

Cause Title: ABC V. XYZ

Appearance:

Petitioners: Advocates M. Sufian Siddiqui, Rakesh Bhugra, Alya Veronica and Mohammad Mazhar Ahmed