2026 INSC 1273

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). OF 2026
(ARISING OUT OF SLP (C) NO.26252 OF 2024)

B. PREMA **...APPELLANT (S)**

VERSUS

B. RAJKUMAR **...RESPONDENT(S)**

J U D G M E N T

VIKRAM NATH, J.

1. Leave granted.

2. The present appeal has been preferred against final judgment and order dated 12.07.2024 passed by High Court of Judicature at Madras in C.R.P. (NPD) No.3205 of 2022 whereby the High Court allowed respondent-husband's Revision Petition and directed the appellant-wife to hand over the possession of certain immovable properties to the respondent.

3. The facts, in a brief conspectus, are as follows:

   3.1. The marriage between the appellant and the respondent was solemnized on 22.10.2007. A daughter was born out of the wedlock on 21.02.2009.

   3.2. The appellant left the matrimonial home with their daughter in 2011 on the ground that the respondent was not maintaining them. With the intervention of elders and

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members of the panchayat, an agreement was executed between them on 08.12.2011.

3.3. As per this agreement, the respondent handed over possession of one acre of tea estate, 30 cents of agricultural land, 20 cents of another agricultural parcel and a portion of a residential house to the appellant and their daughter towards their maintenance. The appellant was permitted to utilize the income from the properties towards maintenance.

3.4. The respondent instituted H.M.O.P. No. 87 of 2012 seeking divorce under Section 13(1)(ia) of Hindu Marriage Act, 1955 (for short, the Act) on the ground of cruelty.

3.5. During the pendency of the divorce petition, the appellant filed an application under Section 24 of the Act seeking interim maintenance of Rs.10,000/- per month and litigation expenses.

3.6. By order dated 26.03.2014, the Trial Court partly allowed the application and directed the respondent to pay Rs.4,000/- per month towards interim maintenance and litigation expenses of Rs.10,000/-.

3.7. The appeal preferred against this order was dismissed by the Appellate Court vide order dated 13.07.2022 with an observation that only a civil revision is maintainable against an order passed under Section 24 of the Act.

3.8. Accordingly, the respondent filed C.R.P. (NPD) No. 3205 of 2022 before the High Court.

3.9. By the impugned order dated 12.07.2024, the High Court partly allowed the Revision Petition. It directed the

appellant to hand over possession of the tea estate and agricultural lands handed over under the agreement dated 08.12.2011, while permitting her to retain possession of the residential house. The respondent was directed to pay a sum of Rs.1,50,000/- towards past maintenance and to pay future maintenance of Rs.4,000/- per month after the appellant handed over possession of the agricultural properties.

3.10. Aggrieved, the appellant is before us.

4. We have heard learned counsel for the parties and examined the material placed on record. An effort was made to resolve the dispute through mediation before the Supreme Court Mediation Centre. However, the parties could not arrive at an amicable settlement.

5. The counsel for the appellant has contended that the properties in the appellant's possession constitute her only security and means of sustenance and that she ought not be deprived of the same. Per contra, the counsel for the respondent has vehemently argued that the respondent is willing to pay any reasonable amount towards appellant's interim maintenance but is insistent upon getting back the possession of the properties.

6. Before examining the rival submissions, it is important to understand the agreement dated 08.12.2011, by which the properties in question were given to the appellant. Under the said arrangement, possession of the tea estate, agricultural lands and a portion of the residential house was handed over to the appellant. It expressly contemplated that the appellant

and the daughter would enjoy the income derived from the properties towards maintenance. It also permitted the appellant to lease the properties for that purpose, while restricting her right to sell or mortgage them.

7. The arrangement was thus intended to secure the maintenance of the appellant and the daughter at a time when they were living separately from the respondent. The properties were not handed over as an outright transfer of ownership. The agreement expressly stipulates that the possession will be conferred on the appellant and their daughter for their life maintenance. The respondent has described the arrangement in his counter affidavit as an interim measure, and the appellant has also acknowledged the same. Her case, however, is that the question of restoration of the properties is to be decided upon the matrimonial proceedings attaining finality. In our view, the interim nature of the arrangement, by itself, could not justify a direction for restoration of possession at the stage of deciding an application for interim maintenance.

8. The High Court found the request of the respondent genuine as the appellant had been in possession and enjoying the fruits of the property since December 2011. It also took note of the appellant's contention that owing to her mother's ill health, she had been unable to effectively supervise the cultivation of the properties. It further noted that no evidence was adduced from either side before the Trial Court. However, without undertaking an assessment of the actual income, from the properties, it proceeded on the basis of respondent's

offer to pay future maintenance at the rate of Rs.4,000/- per month, provided the appellant handed over possession of the properties except the residential house to the respondent.

9. In our considered view, the mere fact that the respondent expressed his willingness to pay the maintenance upon restoration of possession could not, by itself, justify the direction issued by the High Court. The appellant's refusal of the proposal ought to be looked at in the proper context of the arrangement entered into between the parties. Though the appellant accepts that the properties were handed over as an interim arrangement, she has consistently maintained that the question of their restoration is to be decided in the pending matrimonial proceedings. In these circumstances, the appellant could not have been directed to surrender the very properties placed in her possession for the maintenance of herself and her daughter, while deciding the question of interim maintenance.

10. It cannot be denied that the appellant's possession of the properties is a relevant consideration in determining the quantum of interim maintenance. The respondent is entitled to have the income actually available to the appellant taken into account. However, the mere fact that the properties are in her possession, or that they are capable of being cultivated, does not establish that they yield enough to maintain her. The actual income derived, the expenses incurred in maintaining and cultivating the properties, and the appellant's ability to manage them are all relevant considerations. These aspects cannot be determined merely

on the basis of the rival assertions of the parties. The High Court thus fell in error in directing that the possession be handed back to the respondent.

11. We are also unable to sustain the amount of maintenance retained by the High Court. The Trial Court had awarded Rs.4,000/- per month *vide* its order dated 26.03.2014. The High Court, while passing the impugned order dated 12.07.2024 did not modify this amount. The sum has remained unchanged for more than twelve years.

12. While fixing the quantum of maintenance, the circumstances of the parties have to be adequately considered. During this period, the needs and expenses of the appellant would necessarily have increased. Further, the daughter born out of the wedlock, who was about three and a half years old when the application under Section 24 of the Act was filed, is now more than seventeen years old. The appellant is taking care of the daughter by herself. At this stage of her life, her needs are necessarily greater and include expenses towards her education, food, clothing, healthcare and other requirements associated with her growth and development. These responsibilities and the expenses attendant thereto cannot be lost sight of while assessing the financial requirements of the appellant.

13. Having regard to the passage of time since the original award, the present age and needs of the daughter, the appellant's responsibility in looking after her, and the financial circumstances of both the parties, we are of the view that the interim maintenance awarded to the appellant requires

enhancement. The respondent is directed to pay a sum of Rs.15,000/- (Rupees fifteen thousand only) per month towards interim maintenance of the appellant, taking into account her responsibilities towards the daughter, with effect from the date of this order.

14. Having regard to the nature of the arrangement recorded in the agreement dated 08.12.2011, we are of the view that the appellant ought not to be directed to surrender possession of properties handed over to her. The properties were placed in their possession with the express object of securing the maintenance of mother and daughter. The respondent cannot now seek their return as a condition for discharging his obligation to provide maintenance, particularly when the adequacy of the income, if any, derived from the properties has not been established.

15. Accordingly, the appellant shall continue to retain the possession of and enjoy the properties in accordance with the terms of the agreement. We make it clear that this direction is confined to the question of interim maintenance and shall not be construed as an adjudication of the nature of rights of either party in the said properties. All such questions are left open to be determined in appropriate proceedings, in accordance with law.

16. In view of the foregoing discussion, the appeal is allowed. The impugned order dated 12.07.2024 passed by the High Court is set aside. The appellant shall continue to retain the possession of the properties in the manner indicated above.

17. The amount of interim maintenance payable to the appellant shall stand modified to Rs.15,000/- (Rupees fifteen thousand only) per month, with effect from the date of this order.

18. The enhancement directed herein shall not affect the respondent's liability towards maintenance accrued under the earlier orders. The amount of Rs.1,50,000/- directed by the High Court towards past maintenance shall also remain payable, subject to adjustment of any amount already paid. The respondent shall clear the outstanding amounts within eight weeks from today.

19. We clarify that the observations made herein are confined to the application for interim maintenance and shall not influence the adjudication of the matrimonial proceedings or any dispute concerning the properties. The competent Court shall proceed with the matrimonial proceedings expeditiously, uninfluenced by any observations made herein.

20. Pending applications, if any, shall stand disposed of.

.....J.
[VIKRAM NATH]

.....J.
[SANDEEP MEHTA]

.....J.
[APARESH KUMAR SINGH]

NEW DELHI;
NOVEMBER 25, 2026