

O.A. No.60/2010

8.11.2010

Present : Shri S.S.Pandey, Counsel for the Petitioner  
Shri Anil Gautam, Counsel for the respondent No.1 to 4  
Shri Bhim Sen Sehgal, Counsel for the respondent No.5

1. The petitioner by this petition has challenged the impugned order dated 30.11.2009 granting of maintenance i.e. @ 22% to wife of the petitioner and @ 5.5.% to his daughter.
2. Learned counsel for the petitioner submitted that the order granting this maintenance is against the law as petitioner has already filed a petition for dissolution of marriage u/s 13(1) of Hindu Marriage Act, 1955 on the ground of cruelty. It is also submitted that all efforts made for reconciliation has failed. It is also pointed out that the Welfare Association of the Armed Forces also called Petitioner and the Respondent No.5 for reconciliation but Respondent took an adamant attitude not to come and co-habit with the petitioner. Therefore, the grant of this maintenance is not sustainable. As against this, learned counsel for the respondent nos.1,2,3 i.e. Union of India & Ors. supported

the order of the maintenance and likewise the learned counsel appearing for the respondent no.5 (the wife of the petitioner) also supported the order. Further, it is submitted that his wife is living without any substance with her parents, and she had to leave the house because of behavior of the petitioner.

3. We heard learned counsel for the parties and perused the record.

Since the petitioner has already filed suit for dissolution of marriage, therefore, the order of maintenance passed by the army shall abide by the result of the final decree passed by the trial court, in the divorce case.

4. Petition is accordingly disposed of in the aforesaid direction. No order as to costs.

[Justice A.K. Mathur]  
Chairperson

[Lt. Genl. ML Naidu]  
Member (A)

New Delhi  
08...November, 2010