

GAHC010217402023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP/156/2023

SIDHARTHA MITRA @ SIDHARTA MITRA @ SIRDHARTAA MITRA
S/O LT. SUSHIL MITRA R/O BONGAIGAON TOWN WARD NO. 12 NEAR
LEELA GAS GODOWN PIN 783380 P.O AND P.S BONGAIGAON DIST.
BONGAIGAON ASSAM

VERSUS

SMRITIKANA PAUL (BOBI)
W/O SIDHARTA MITRA D/O LT. NAND DULAL PAUL R/O CHOTOLAKUTHI
P.O. AND P.S. BOKSHIRHAT PIN 736131 DIST. COACHBEHAR WEST BENGAL

Advocate for the Petitioner : MR G BHARADWAJ

Advocate for the Respondent : MR. A T SARKAR

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

03.06.2024

Heard Mr. G Bharadwaj, learned counsel for the petitioner as well as Mr. A T Sarkar, learned counsel for the respondent.

This is an application filed under Article 227 of the Constitution of India challenging the order dated 28.06.2023 passed by the learned District Judge, Bongaigaon in Misc. (J) Case No. 23/2020

arising out of T.S. (D) No. 40/2020.

On 16.12.2020, the respondent being the petitioner before the trial court filed an application under Section 24 of the Hindu Marriage Act, 1955 seeking maintenance *pendente lite* as well as monthly maintenance. The present petitioner being the opposite party objected to the said application by filing an written objection wherein the present petitioner submitted before the court that a maintenance case under section 125 CrPC against him was also pending.

On 14.09.2022, the learned Judicial Magistrate allowed the maintenance of Rs.5,000/- per month to be paid by the present petitioner. It is stated that a revision petition was filed against the said order of maintenance and the maintenance allowance was reduced to Rs.3,000/- per month.

Mr. Bharadwaj submits that in spite of that by the impugned order the present petitioner was directed to pay a *pendente lite* maintenance of Rs.30,000/- to the respondent till disposal of the suit and a sum of Rs.20,000/- as cost of the litigation was also directed to be paid by him.

I have considered the submission made by the learned counsel of both sides. I find that while passing the impugned order, the trial court did not disclose about the fact that the maintenance of Rs.3,000/- was directed to be paid to the respondent.

In view of the observation made in paragraph 98 by Hon'ble Supreme Court in the case of Rajnesh vs. Neha and Ors, the impugned order is bad in law and accordingly, the same stands set aside.

The matter is remanded to the court of the learned District Judge, Bongaigaon for deciding afresh after hearing the both sides. The trial court shall dispose of the matter within 30(thirty) days of receiving of this order.

With the above, the present civil revision petition stands disposed of.

JUDGE

Comparing Assistant