

Party Name : SABITA SARKAR Vs PULIN SARKAR

THE HONBLE MR. JUSTICE S.TALAPATRA

Heard Ms. P. Dhar, learned counsel appearing for the petitioner.

It is to be noted that when the notice was sought to be served on the respondent it returned with a remark that no person was available in the address given in the said notice. Then the petitioner was permitted to take substituted service in view of Section 65 of the Cr.P.C., but there has been no representation from the respondent. As such, this Court has taken up this petition for disposal in his absence.

This is a petition filed under Section 19(4) of the Family Courts Act, 1986 questioning the legality of the judgment and order dated 22.06.2011 delivered in Misc.145 of 2008 by the Judge, Family Court, Agartala, West Tripura by refusing to grant the petitioner any maintenance allowance on the ground that since the petitioner did not approach the court for long 20 years, she is not entitled to get any maintenance.

This Court is really taken aback by such observation. The question that is required to be determined by the Court in a proceeding under Section 125 of the Cr.P.C. is that whether the person who is entitled to get the maintenance, has been refused to be maintained or not. The salutary object of Section 125 of Cr.P.C. is to deter vagrancy of the wife living separately from the husband, when she had failed to live in the husband's house. It is available on the record that after filing the written objection, the respondent herein did not adduce any evidence to rebut the evidence led by the petitioner. A miserable saga of life has been narrated by the petitioner in the trial but it did not evoke any positive response from the court. The petitioner has stated that she does not have any means to maintain herself. It appears that the respondent is a daily labourer and according to the petitioner, he has been earning a sum of Rs.4,000/- (Rupees Four) thousand per month.

Be that as it may, this Court finds that the finding of the Family Court as reflected in the impugned judgment and order dated 22.06.2011 is entirely uncalled for.

Having regard to all these aspects of the matter, the respondent is directed to pay a sum of Rs.1,500/- (Rupees one thousand five hundred) per month to the petitioner w.e.f. 01.06.2015 continuously till such maintenance allowance is altered in the change of circumstances. Such amount shall invariably be remitted to the address of the petitioner as undernoted within the 10th day of every English calendar month. The respondent is further directed to send the said amount by money order and the charge of money order shall be borne by him.

Smti. Sabita Sarkar
wife of Sri Pulin Sarkar,
care of Sri Hari Gopal Sarkar,
of Subhasnagar, Pratapgarh,
P.O. Pratapgarh, P.S. East Agartala,
West Tripura

This petition stands allowed to the extent as above.

The Registry is directed to send a copy of this order to the known address of the respondent by registered post with A.D.

The petitioner may follow the outcome of such service in her own interest. If it is found that the order could not be served, the petitioner shall remain at liberty to serve the copy of this order on the respondent by any other means.

A copy of this order shall also be served to the petitioner, free of cost.