

Party Name : CHANDAN CHAKRABORTY Vs ARCHANA BHATTACHARJEE & ANR

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Mr. S. Chakraborty, learned counsel appearing for the petitioner.

By means of this application filed under Section 19(4) of the Family Courts Act, 1984, the order dated 06.11.2014 has been challenged.

From the very reading of the impugned order, it appears that the order dated 06.1.2014 was passed on the basis of the amicable settlement reached between the parties. For the purpose of reference, relevant part of the order regarding such settlement is extracted hereunder:

“During hearing at the intervention of the court, both sides amicably settled that the OP shall pay maintenance allowance @ Rs.3,000/- per month for each of the petitioners i.e. for Smt. Archana Bhattacharjee and her minor son Arnab, in total Rs.6,000/- per month w.e.f. 01/10/14, and the opp. shall send the amount to the petitioner Archana by money order or by depositing in her Savings Bank Account, if furnished for the period till disposal of the connected Misc.49/13, u/S.125 of Cr.P.C.”

Mr. Chakraborty, learned counsel appearing for the petitioner has submitted that there was no such amicable settlement as recorded in the order and as such this order cannot be maintained in law.

From the other side, Ms. K. Roy, learned counsel appearing for the respondents has submitted that the settlement was arrived at before the Presiding Judge and in the course of the conciliation.

Be that as it may, what happened before the Judge, Family Court, Agartala, West Tripura cannot be inquired by this Court right at this point as this Court is to be guided by the record of the process and nowhere in the order or in the record it has been reflected that there was any disagreement on the amount so settled between the parties. The petitioner had however the right to raise his plea against such observation as to the amicable settlement in the court which passed the impugned order. But no such plea has been raised nor was brought to the notice of the said court. As such, this petition is dismissed. However, the petitioner if files any petition supported by the affidavit contending that no such amicable settlement was at all arrived at between the petitioner and the respondents within a period of one month from today, the Judge, Family Court, Agartala, West Tripura may after giving reasonable opportunity to the respondents to have her say on the issue decide it in accordance with law. After filing of such petition as regards the observation as recorded in the order dated 06.11.2014, the respondents shall be issued notice afresh communicating the date of appearance for filing of the objection or hearing.

With this observation, this petition stands disposed of.