

Party Name : SMT. MOUMITA RAY Vs SATYAKI PAUL CHOUDHURY

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HONBLE THE CHIEF JUSTICE DEEPAK GUPTA THE HONBLE MR. JUSTICE S.C.DAS

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This is an application filed by the petitioner for grant of maintenance *pendente lite*.

2. Earlier when the matrimonial proceeding was pending before the trial Court an application for grant of maintenance *pendente lite* was preferred and in that petition the Family Court had awarded maintenance *pendente lite* @ `25,000/-(rupees twenty five thousand) per month to the husband.

3. This Court vide a detailed judgment had reduced the maintenance *pendente lite* to `17,000/-(rupees seventeen thousand) per month but had thereafter issued the following order:

*"11. The order of the Family Court is modified accordingly. The husband has paid some amount towards arrears during the pendency of this appeal and in view of the interim orders has been paying maintenance @ `10,000(rupees ten thousand) per month. Therefore, he has to make good the arrears uptil now. He shall, therefore, pay the future maintenance @ `17,000-(rupees seventeen thousand) per month as assessed by us along with arrears @ `8,000/-(rupees eight thousand) per month, i.e. `25,000/-(rupees twenty five thousand) per month till all the arrears are paid off."*

4. Thereafter, the divorce petition filed by the husband has been rejected by the Family Court on 18.12.2013. Thereafter, the appellant-husband has not paid the maintenance *pendente lite* but has only paid the arrears @ `8,000/-(rupees eight thousand) per month.

5. The husband challenged the judgment of the Family Court dismissing his petition for grant of divorce by filing Matrimonial Appeal No.2 of 2014 and the wife has filed this application for grant of maintenance *pendente lite* on 10.11.2014.

6. The husband has filed reply and states that his salary is now `66,925/-(rupees sixty six thousand nine hundred and twenty five) per month. While calculating the carry home salary of `66,925/-(rupees sixty six thousand nine hundred twenty five) the deductions of `11,716/-(rupees eleven thousand seven hundred sixteen) have been excluded which deductions are on account of income tax, professional tax, food coupon deduction and provident fund.

7. Be that as it may, in view of the detailed judgment passed by this Bench in Matrimonial Appeal No.10 of 2012 dated 04.09.2013, we feel that the petitioner-wife is entitled to maintenance *pendente lite* at the same rate i.e. `17,000/-(rupees seventeen thousand) per month and this cannot be reduced. Therefore, she is awarded maintenance @ `17,000-(rupees seventeen thousand) per month, w.e.f. the date of filing of this application, i.e. 10.11.2014 and the appellant-husband shall w.e.f. 10.11.2014 pay maintenance @ `17,000-(rupees seventeen thousand) per month in addition thereto he shall pay arrears of `8,000/-(rupees eight thousand) per month till all the arrears are cleared.

8. CM Application accordingly stands disposed of.