

Party Name : SANJIT DEBBARMA Vs RITA DEBBARMA & ORS.

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Mr. M. Debbarma, learned counsel appearing for the petitioner as well as Mr. P. Chakraborty, learned counsel appearing for the respondents.

This is a petition under Section 19(4) of the Family Courts Act, 1984 against the order dated 13.11.2014 passed by the Judge, Family Court, Agartala, West Tripura in case No.Misc.43 of 2014 providing monthly maintenance allowance @ Rs.6,000/- to the petitioners w.e.f. 01.11.2014.

Mr. Debbarma, learned counsel for the petitioner at the outset very fairly submitted that since the petitioner was transferred outside the State, namely Manipur, he was precluded by the circumstances from attending the court proceeding and the court decided the matter ex parte.

In this regard, Mr. P. Chakraborty, learned counsel appearing for the respondents has raised serious objection and stated that despite he received the notice he did not take care to participate in the proceeding nor did he approach the court for engaging a counsel to represent him. So there is no apparent infirmity in this order.

In rejoinder to this submission, Mr. Debbarma, learned counsel has submitted that the petitioner is not fully aware of the procedural aspects and thus he could not take the appropriate steps as required to be taken by him.

Having regard to the submission made by Mr. Debbarma, learned counsel this Court is of the view that the petitioner shall be granted an opportunity to file his statement objecting or admitting the contention of the petition filed by the respondents. Having regard to that and without any observation on the merit the impugned order dated 13.11.2014 is interfered with and set aside. The Judge, Family Court, Agartala, West Tripura shall provide the petitioner opportunity of filing the written objection and all other opportunities from that stage and thereafter decide the matter afresh subject to that the petitioner shall pay the arrears of maintenance allowance as determined by the Judge, Family Court, Agartala, West Tripura by the impugned judgment within 5th of March, 2015 and the petitioner shall continue to pay the maintenance as determined by the Judge, Family Court, Agartala, West Tripura till disposal of the said petition in terms of this order. Payment of monthly maintenance or its arrears shall be treated as the interim maintenance allowance.

It is further made clear that if within 05.03.2015 the petitioner fails to pay the arrear maintenance and/or maintenance due to the respondents, this order will have no effect and for such default in making payment as stated, this petition shall be treated as dismissed. Accordingly, this petition stands disposed of.

A copy of the order be furnished to the learned counsel for the parties.