

22.12.2020
Item No.15
Ct. No.7
CHC

**C.O. 1100 of 2018
(Via Video Conference)**

**Brahmananda Bhattacharyya
Vs.
Srirupa Bhattacharyya (Neogy)**

Mr. Srijib Chakraborty,
Mr. Amit Chowdhury,
Ms. Subhamita Singh
...for the petitioner

Mr. Kallol Kumar Basu,
Mr. Arindam Ghosh,
Md. Jannat Ul Firdous
...for the respondent/o.p.

The impugned order no.28 dated 15th February, 2018 passed by learned Additional District Judge, Hooghly, 1st Court in Mat.Suit No.2633 of 2014, granting *alimony pendente lite* at the rate of Rs.20,000/- per month in favour of wife/opposite party is the subject of challenge in this revisional application under Article 227 of the Constitution of India.

Admittedly, the wife/opposite party tied her knot with petitioner/husband on 14th June, 1998. A female child was born to them out of their wedlock. That for the matrimonial discord, the petitioner/husband filed a matrimonial suit for divorce under Section 13 of the Hindu Marriage Act. The wife/opposite party after

entering appearance in the matrimonial suit prayed for *alimony pendente lite* expressing her inability to support herself and her school going minor daughter, who was then pursuing study in Class-XII of an english medium school. The petitioner/husband admittedly, is an ex-army personnel enjoying pension per month. After his defence service, the petitioner/husband was employed as a Primary Teacher of a school.

It is contended by the wife/opposite party that the petitioner/husband is a well to do person as he has obtained handful amount of retirement benefits, which has been deposited in a monthly earning scheme, besides his pension amount and the monthly salary as a teacher of a Primary School. The wife/opposite party claimed herself to be without any income of her own to maintain herself as well as her daughter pursuing then school study in Class-XII. The petitioner/husband in connection with the instant proceeding under Section 24 of the Hindu Marriage Act took a plea that he had been voluntarily depositing Rs.13,000/- per month as maintenance for his wife and daughter as well, and that amount was taken into account by the learned court below, while fixing the quantum of *alimony pendente lite* at the rate of Rs.20,000/- per month.

Mr. Srijib Chakraborty, learned advocate for the petitioner submits that the petitioner/husband has been put to face financial hardship to comply the order granting *alimony pendente lite* at the rate of Rs.20,000/- per month. It is also submitted that the amount granted was disproportionately fixed without having taken care of the existing income of the petitioner/husband together with his present commitment and liabilities.

Per contra, Mr. Kallol Kumar Basu, learned advocate representing the wife/opposite party submits that the impugned order granting *alimony pendente lite* being reasoned would remain unaltered, as the learned court below has taken care of the commitment and liabilities including the existing salary of the petitioner/husband as a Primary Teacher of a school.

It is also submitted by learned advocate for the opposite party/wife that the order was granted on 15th February, 2018, when the daughter pursuing her study being a student of Class-XII of an english medium school, and that daughter has now been studying Architectural Engineering as a second year student. The educational expenses, according to opposite party/wife, has gone high, and needs of the wife has been reasonably increased, compared to the

year 2018, when the *alimony pendente lite* was quantified.

Upon hearing both sides, it is thus clear that the petitioner/husband has been paying Rs.13,000/- per month as maintenance for the wife and daughter, which the petitioner has been voluntarily paying, and this amount has been noticed by the learned court below, while deciding the quantum of maintenance. The only point needs to be decided is whether the amount fixed is disproportionate with the existing income of the petitioner/husband requiring any interference or not. The needs of wife and the daughter can always be taken to be changing, and it can never be static. There is nothing shown that the petitioner/husband has suffered enhancement in respect of his monthly salary as well as his pensionary amount, after the order granting *alimony pendente lite* was recorded.

Mr. Chakraborty, learned advocate for the petitioner candidly submits that a little reduction of the amount will help the petitioner/husband to comply the order granting *alimony pendente lite* and it will shorten the harassment of both the parties. The quantum of *alimony pendente lite* has been decided without entering into the evidence. The principle behind the fixation of quantum of *alimony pendente lite* is that the amount to be granted, cannot be taken

to be repressive and squeezing also. The commitment and liabilities together with the existing income of the husband together with the needs of the wife are of paramount consideration.

Learned advocate for the opposite party/wife responding to such submission of Mr. Chakraborty submits that the petitioner/husband may be directed to clear all dues so that petitioner is not put to face any financial distress any more even after being favoured with an order of *alimony pendente lite*.

Without going into the details, this Court is also of the view that if a little amount is reduced simply to enable the petitioner/husband to pay the *alimony pendente lite*, that will help both the parties to have the final decision reached expeditiously in the matrimonial suit remaining pending at the court below at this stage. The amount, if reduced, will not debar the opposite party/wife from claiming any enhancement of the *alimony pendente lite* already granted showing the change of needs of the wife as well as the daughter for a change in the circumstances. The reduction, as proposed by Mr. Chakraborty, learned advocate for the petitioner, will subserve the purpose of justice.

The revisional application is, thus, disposed of directing the petitioner to pay Rs.19,000/- (Rupees Nineteen Thousand) per month as *alimony pendente*

lite for the wife/opposite party and daughter of the wife with effect from the date, as already ordered by the learned court below, inclusive of the amount of Rs.13,000/- per month, which the petitioner/husband has been voluntarily paying to opposite party/wife. The other portion of the order will, however, remain unchanged. The impugned order granting *alimony pendente lite* is, thus, modified to the extent as above.

The revisional application is, thus, disposed of.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)