

25.02.2021

Ct. No.13

Sl. No.133

akd

**W.P.A. 2138 of 2021 [via video conference]
(CAN 1 of 2021)**

[Amal Sarkar -Vs- The West Bengal State Co-operative Housing Federation & Ors.]

Mr. Debanik Banerjee
Mr. Steven Sourodip Biswas
... .. for the petitioner

Mrs. Sipra Ganguly
... .. for respondent nos.1 to 3

Mrs. Madhumita Datta
... .. for the applicants
[in CAN 1 of 2021]

CAN 1 of 2021 has been filed by the wife and son of the petitioner. Copy of CAN 1 of 2021 as supplied by the learned counsel for the applicants is taken on record.

The wife claims that there are proceedings pending for divorce before the learned 14th Additional District Judge, Alipore being MAT 29 of 2007. It is further submitted that orders have been passed by the court below directing interim maintenance towards the wife and son. The son is stated to be studying in Class XII. There are admitted arrears towards maintenance. The quantum of arrears is pending decision in the court below.

The wife namely, Namita Sarkar and son namely, Anindya Sarkar are added as party respondents to the instant writ application. Learned counsel for the added respondents shall incorporate necessary changes in the cause title.

No fresh service on the other respondents is necessary since all the parties are represented before this court.

The petitioner has superannuated from service of the respondent no.1 in January, 2020. He has been paid provident fund and leave encashment. The gratuity amount is still payable and has not been released. Since the gratuity fund is maintained by the Life Insurance Corporation of India, it is submitted by the society that a sum of Rs.12,17,948/- has been paid by the Life Insurance Corporation of India to the society on account of the writ petitioner, in March, 2020.

The society employer has outstanding dues towards housing loan availed by the writ petitioner. In the above circumstances, the respondent no.1 shall deduct all sum payable by the petitioner towards the housing loan availed by him from the aforesaid gratuity amount paid by the Life Insurance Corporation of India. After deducting the housing loan dues, a sum of Rs.2,50,000/- shall be paid by the respondent no.1 into the Court of the 14th Additional District Judge, Alipore particularly to the credit of Money Execution Case No.15 of 2018 arising out of Misc. Case No. 17 of 2008 in MAT No. 29 of 2007.

The deposit of Rs.2,50,000/- shall abide by any order the learned 14th Additional District Judge, Alipore may pass in MAT Suit No. 29 of 2007 and the pending Misc. and Execution cases.

The respondent no.1 shall also be liable to pay interest on the gratuity amount to the petitioner at the rate of 6% per annum. The interest is awarded since LIC has paid the respondent no.1 the gratuity amount on account of the petitioner in March, 2020 and the said respondent is holding the same without payment till date.

With the aforesaid directions, the writ petition is disposed of.

In view of disposal of the writ petition, CAN 1 of 2021 is also disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rajasekhar Mantha, J.)