

S/L 11
22.02.2021
Court. No. 19
GB

C.O. 233 of 2021

Shrikrishna Mondal
Vs.
Supriya Mondal (Pramanik)
(Through Video Conference)

Mr. Tapodip Gupta.

...for the Petitioner.

The petitioner being the husband in Matrimonial Suit No.390 of 2018, pending before the learned Additional District Judge Cum Judge, Special Court (E.C. Act), Berhampore, Murshidabad has preferred this revisional application being aggrieved by an order passed in Misc. Case No.33 of 2019.

By the order impugned the learned court below has allowed Rs.6000/- per month for the wife and Rs.4000/- per month for the minor daughter payable month by month every month within the 10th of next English calendar month till the disposal of the matrimonial suit.

Misc. Case No.33 of 2019 was disposed of. The payment was made effective from the date of filing of the application. The learned court further directed the petitioner to pay the amount of Rs.2,500/- per month towards arrears in addition to Rs.10,000/-. It was further directed that cost Rs.15,000/- should be paid as litigation cost.

It appears that written objection was not filed by the husband/petitioner. It has been recorded so. No prayer for

allowing the husband to file the written objection at any stage was made. Rather, the learned advocate of the husband fairly submitted that without prejudice to the interest of his client, the misc. case may be disposed of.

The learned court on consideration of the affidavit-in-chief of the wife and also the cross-examination of the wife, came to the conclusion that the husband being a retired service man was earning a lump sum amount of pension which was not less than Rs.35,000/- and passed an order for maintenance *pendente lite* at the rate of Rs.6,000/- for the wife and Rs.4,000/- for the minor child. The pension statement annexed to this revisional application shows that the gross pension of the petitioner was Rs.30,383/- along with disability element and dearness relief etc. A portion of the pension has been commuted, which means that the said amount has been received by the petitioner at the time of retirement.

Thus, this Court does not find any reason to interfere with the order impugned in the absence of any pleadings or evidence to the contrary. This Court cannot sit in appeal over the evidence and the facts, which have been taken into consideration and recorded by the learned court. The learned court below has directed payment of little less than one-third of the gross pension amount of the petitioner. The petitioner has retired from the Indian Army. The petitioner has a duty to maintain his wife and child and keep them in the same status as they were enjoying when the couple was

living together. Provisions of food, clothing, shelter and accommodation should be made when the court considers what should be the adequate amount to be awarded as maintenance *pendente lite*. Rs.6,000/- per month for the wife and Rs.4,000/- per month for the minor child, who has her entire life and further prospect ahead of her with regard to her daily and educational expenses, cannot be said to be unreasonable. The husband has not been able to show that his income, did not justify payment of such amount. Moreover, the husband did not file any written objection or adduce evidence contrary to the contentions of the wife in the pleadings and also her evidence.

Thus, the revisional application is dismissed.

There will be, however, no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)