

04.02.2021
Court No. 19
Item No.20
CP

C.O. 714 of 2020

Rudraprasad Kundu
vs.
Namrata Kundu

(via video conference)

Mr. Saptangshu Basu, Sr. Adv.
Mr. Kumar Jyoti Tiwari
Mr. Prantik Ghosh
Mr. S. Guha

....for the petitioner.

Mr. Siddhartha Lahiri
Mr. Debraj Dutta

....for the opposite party.

This revisional application has been filed by the husband in Matrimonial Suit No. 1848 of 2017. The husband is aggrieved by an order dated February 5, 2020, passed by the learned Additional District Judge, 3rd Court at Barasat.

It is the contention of the petitioner that while passing the order impugned granting maintenance pendente lite in favour of the opposite party/wife, the petitioner's written objection was not considered. The fact that the wife's take home salary was Rs.2,00,000/- per month was also not considered. Documents like the IT returns filed by the parties for the financial year 2019-20, the bank statements etc. were not considered and the learned court below

awarded Rs.1,00,000/- as maintenance pendente lite along with the litigation cost of Rs.30,000/-.

When this application was admitted, this court directed the petitioner to pay the litigation cost and also Rs.40,000/- per month month by month. It is informed that litigation cost has been paid and the maintenance pendente lite, as directed by this court has also been paid.

Mr. Lahiri, learned advocate appearing on behalf of the opposite party/wife, submits that there could be some dues but he is not aware of the exact amount. However, this court does not think it necessary to keep the matter pending before this court any more. In view of the decision of the Hon'ble Supreme Court in the matter of Rajnesh vs. Neha & ors., reported in 2020 SCC Online 903, the matter requires to be heard out on the basis of documents, evidence, both oral and documentary and affidavit of assets to be filed by the respective parties in support of their claims and counter-claims.

Having gone through the order impugned, I find that the same suffers from material irregularity, inasmuch as, the learned court below did not take into account the documents filed by the parties. Reasons have also not been assigned as to why the learned court below thought Rs.1,00,000/- would be

a reasonable amount to be paid as maintenance pendente lite.

Under such circumstances, the order impugned is set aside and quashed.

The learned court below is directed to hear out the application for maintenance pendente lite afresh upon granting an opportunity to both the parties to adduce further evidence both oral and documentary and file their affidavit of assets and liabilities in the learned court below in terms of the decision of the Hon'ble Apex Court in Rajnesh (supra).

The learned court below shall complete the hearing of the application within a period of two months from the date of communication of this order.

Payment for February, 2021 shall be made within March 10, 2021 @ Rs.40,000/-. All payments and acceptance made so far shall abide by the final result of the application for maintenance pendente lite.

The revisional application is 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 as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)