

S/L 22
16.03.2021
Court. No. 19
GB

C.O. 536 of 2021

Monoranjan Nag
Vs.
Tinamoni Nag (Chakraborty)

(Through Video Conference)

Mr. Sudip Ghosh Chowdhury,
Mr. Argha Das,
Mr. Abhishek Bose.

...for the Petitioner.

This revisional application arises out of an order dated March 3, 2020 passed by the learned Additional District Judge, Chandernagar, Hooghly in Matrimonial Suit No.08 of 2018.

The petitioner is aggrieved by the order impugned allowing Rs.4,000/- per month in respect of the wife and Rs.2,000/- per month in respect of the minor child as maintenance *pendente lite*. A further sum of Rs.10,000/- was allowed as litigation cost.

The learned court below has come to the conclusion that there was no documentary evidence on the part of the husband to prove his actual income. On the other hand, the statement of the wife on oath was that, the husband was a plumber as well as a plumbing contractor and he did plumbing job on contractual basis in multistoried buildings and malls and had an income of Rs.20,000/- to Rs.25,000/- per month. The learned court below observed that it was the

duty of the husband to prove his own income and provide maintenance to his wife and child.

The law is well-settled that the income of the husband is within his personal knowledge and the onus lies on the husband to prove his income. When a fact to be proved (whether affirmative or negative) is peculiarly within the knowledge of the party, it is for him to prove it.

As the husband has failed to prove his income to be Rs.12,000/- per month, the learned court below considering the averments in the application filed by the wife, has come to the conclusion that Rs.4,000/- per month would be adequate for the wife and Rs.2,000/- per month would be adequate for the minor son. The learned court below has also come to the finding that the wife did not have any income to maintain herself. The amount awarded is reasonable and will cover the bare essentials for the wife and child. The cost of living, education of the child, medical expenses and rent are the basic parameters to be taken into account while awarding maintenance. Thus the amount awarded is not exorbitant or excessive and the order requires no interference. There is nothing on record to prove that the husband's income was insufficient or inadequate.

I do not find any reason to interfere with the order impugned and the revisional application is thus, 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.)