

7th July,
2021
(AK)
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C.O 994 of 2021

(Via Video Conference)

Debjit Ghosh
Vs.
Smt. Soni Ghosh

Mr. Pinaki Ranjan Mitra

...For the Petitioner.

Despite service, none appears for the opposite party/wife when the matter is called on for hearing.

Affidavit-of-service filed in court today be kept on record.

Upon hearing learned counsel for the petitioner, it is clear from the impugned order that the Income Tax Returns filed by the petitioner/husband was brushed aside by the trial court merely on the ground that the same was not signed by the husband.

However, such ratio is not tenable, since electronic copies of Income Tax Returns generally do not contain the signature of the assessee.

That apart, the Trial Judge has taken into account the business turnover of the petitioner's company while granting alimony. However, the business turnover need not always reflect the actual income of the husband, since a major portion of such turnover is often rolled over

to the next financial year or utilized for the purpose of the business itself.

That apart, in view of the Income Tax Returns of the husband being on record, which shows that the annual gross income of the husband is Rs.5,98,022/-, the trial court acted patently without jurisdiction in granting monthly alimony at the rate of Rs.30,000/- and litigation costs of Rs.20,000/-.

Moreover, it has been recorded in the impugned order itself that the wife admitted that she was in service but did not disclose her current income and/or any document to show that she had lost her job as per her allegation.

In such view of the matter, even taking a liberal view in favour of the wife, at the most, one-fifth of the monthly income, which comes to around Rs.50,000/-, should have been granted to the opposite party/wife.

That apart, the petitioner/husband is looking after the two children of the parties, which liability ought also to be shared by the opposite party/wife.

In view of such considerations, C.O. 994 of 2021 is allowed, thereby setting aside the impugned order and directing the petitioner to pay Rs.10,000/- per month as alimony and a lumpsum amount of Rs.10,000/- as litigation costs to the opposite party/wife. Such payment shall be from the date of the application for alimony.

The husband shall pay at the rate of Rs.10,000/- per month for each current month by the fifteenth of the succeeding month.

The first of such instalments shall be paid within August 15, 2021 (for the month of July 2021). All arrears at the rate of Rs. 10,000/-, from the month of filing of the alimony application till the month of June 2021, along with the litigation costs, shall be paid by the husband within three months from date to the opposite party/wife.

There will be no order as to costs.

Urgent website certified copies of this order, if applied for, be given to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)