

S/L 17
26.03.2021
Court. No. 19
GB

C.O. 3780 of 2019

Mita Lahiri
Vs.
Dwipendranath Lahiri

(Through Video Conference)

Mr. Setabuddin Khondekar,
Mr. Mobaidur Hossain.

...for the Petitioner.

Mr. Subhasis Sarkar,
Mr. Subrata Bhattacharjee.

...for the Opposite Party.

This revisional application has been filed by the petitioner/wife challenging an order dated August 6, 2019, passed by the learned Additional District Judge, 15th Court at Alipore in Matrimonial Suit No.44 of 2000.

Matrimonial Suit No.44 of 2000 was filed by the wife praying for dissolution of marriage on the ground stated therein. The suit is at the stage of framing of issues. By the order impugned the learned court below directed the husband to pay maintenance *pandente lite* at the rate of Rs.3,000/- per month with effect from the date of filing of the application. The arrears were directed to be paid within six months. Regular maintenance was to be paid within 15th of each English Calendar month, month by month every month either by money order or by cash. A further sum of Rs.20,000/- was awarded as litigation cost.

It is submitted by the learned advocate for the husband that the maintenance as also the litigation cost as directed by the learned court below was offered but was refused. The petitioner is aggrieved because the quantum of maintenance was insufficient and fixed at a rate, which was claimed 19 years ago. It is submitted that by a supplementary affidavit the petitioner sought to bring the changed circumstance on record which was not accepted by the learned court below, as the same were not a part of the pleadings.

The learned court below passed the order by taking into consideration the prayer of the petitioner in the application for maintenance *pendente lite* and the quantum prayed for. As the daughter had attained majority and was married, the learned court below did not pass any order with regard to the daughter as the said claim had lost its force. The learned court below did not take into account the changed circumstances only because there was nothing on record for the court to decide the same.

Under such circumstances, in my opinion, justice would be sub-served, if the wife is given an opportunity to file an application for enhancement incorporating the changed circumstances. The husband will be entitled to file the written objection to the said application. The said application will be heard on its own merits and in accordance with law. Parties will be entitled to adduce evidence during the hearing of this application.

This Court has not gone into the merits of the claim and counter-claim of the parties and the learned court below shall decide the issues raised in the application, to be filed by the wife, independently and in accordance with law.

With regard to the litigation cost, the same shall be paid to the wife within two weeks from date. The maintenance as directed by the learned court below shall be paid month by month, every month on and from April 10, 2021 till the disposal of the application for enhancement and subsequent orders passed therein. The entire arrears shall be liquidated in six equal monthly instalments along with regular maintenance. First of such instalments shall be paid within May 10, 2021 along with regular maintenance. Thereafter the other instalments shall be paid within the 10th of every succeeding month till the entire arrear is liquidated.

In case of default, the petitioner will be at liberty to take appropriate steps in the learned court below.

The revisional application is disposed of.

However, there will be 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.)