

14.01.2021
Sl. No. 9
srm

C.O. No. 1441 of 2020

Dr. Tanmoy Mukhopadhyay

Vs.

Sm. Saswati Mukhopadhyay nee Chakraborty

Mr. Somnath Roy Chowdhury

...for the Petitioner/Husband.

Ms. Sohini Chakraborty,

Ms. Prajaaini Das

...for the Opposite Party/Wife.

Supplementary affidavit is taken on record.

This revisional application has been filed by the husband in Matrimonial Suit No.36 of 2015 being aggrieved by an order dated October 6, 2020 passed by the learned Additional District Judge, 11th Court at Alipore, District-24-Parganas (South). The petitioner is aggrieved by the order on the ground that the learned Court below ought to have allowed some reduction in the monthly alimony, which was directed to be paid by the learned Court below and affirmed up to the Hon'ble Apex Court.

It is the contention of the petitioner that the income of the petitioner has gone down drastically during the pandemic situation and in support of his claim he had annexed the salary slip issued by the Apollo Gleneagles Hospital. The petitioner was directed by this court to show his *bona fide* by paying the amount of Rs.2,40,000/- out of the arrear dues against the

maintenance *pendente lite* from March, 2020 to December, 2020.

A sum of Rs.2,40,000/-, as directed by this Court, has already been paid, school fees up to December, 2020 has been paid in respect of the minor children.

Now the petitioner prays that the maintenance *pendente lite* payable from March, 2020 to March, 2021 be reduced to 40% of the present salary which has been disclosed in the application.

Ms. Chakraborty, learned Advocate appearing for the opposite party/wife, submits that the salary could not be the only income of the husband and once the quantum of maintenance has been fixed by the learned Court below, which has been affirmed up to the Hon'ble Apex Court, the question of reduction of the maintenance *pendente lite* does not arise. She further submits that apart from the salary, the other income of the husband has not been disclosed before the learned Court below.

It is true that due to changed circumstances a Court can enhance or reduce maintenance awarded earlier. The maintenance *pendente lite* which was awarded and affirmed up to the Hon'ble Apex Court was on the consideration of the income of the husband at the relevant point of time. The law is settled that the changed circumstances will always permit a party to pray for either reduction or enhancement of the

maintenance *pendente lite*. However, the submission of Ms. Chakraborty, in this regard, cannot be totally disregarded, inasmuch as, her specific case is that the husband's income from the hospital even if has been reduced, he has adequate means to pay the maintenance *pendente lite* as directed earlier. As there is nothing on record either before the learned trial Judge or before this Court to assess the income of the husband apart from the salary slip. No order can be passed in this revisional application. However, the petitioner is at liberty to apply before the learned Court below afresh with all documents and statement of income/balance-sheet, etc. in support of his claim that his income during the pandemic situation did not permit him to pay the amount directed earlier and lead evidence to show that his income has gone down considerably and the maintenance *pendente lite* should be reduced by the learned Court below.

If such application is filed, the learned Court below shall decide and dispose of the same as expeditiously as possible preferably within a period of one month from the date of filing of the same. An advance copy of the same shall be served upon the opposite party/wife and the opposite party/wife shall file the objection to the said application within seven days from the service thereof.

With the above observations, the revisional application is disposed of.

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.)