

08.02.2022
Item No.17 & 18
Court No.18
AJ.

C.O. 589 of 2019
(Via Video Conference)
Smt. Ratna Ghosh
-Vs-
Sri Rajat Ghosh

with

C.O. 532 of 2019
Sri Rajat Ghosh
-Vs-
Smt. Ratna Ghosh

Mr. Nanigopal Chakraborty.

...for the petitioner in
C.O. 589 of 2019 &
for the opposite party
in C.O. 532 of 2019.

Mr. Debasis Sur,
Mr. Ashok Chowdhury.

.....for the petitioner in
C.O. 532 of 2019 &
for the opposite party
in C.O. 589 of 2019.

The revisional applications are taken up together for analogous consideration and disposal since a common order being Order No. 50 dated January 21, 2019 passed by the 1st Court of learned Additional District Judge, Sealdah in Misc. Case No. 3 of 2016 arising out of Matrimonial Suit No. 283 of 2015 is under challenge in both the matters.

Sri Rajat Ghosh, husband of the opposite party Smt. Ratna Ghosh has filed the connected matrimonial suit for a decree of restitution of conjugal rights of the parties.

The wife in the said suit filed an application for alimony pendente lite under Section 24 of the Hindu Marriage Act, 1955. The learned Trial Judge, by the order impugned, has disposed of the said application by directing the husband to pay alimony pendente lite to the wife @ Rs. 10,000/- per month, a further sum of Rs. 25,000/- was directed to be paid on account of litigation expenses.

The husband has challenged the said order in C.O. 532 of 2019 whereas the wife has challenged the said order in C.O. 589 of 2019.

Mr. Debasis Sur, learned advocate for the husband submits that the amount of alimony pendente lite is required to be reduced as the same is disproportionate with the income of the husband, moreover, during the pendency of the revisional application, the husband has retired from his service, as such, he would not be able to pay alimony pendente lite from his pension at the rate fixed by the learned Trial Judge.

Mr. Nanigopal Chakroborty, learned advocate for the wife submits that his client is not aware of the fact of retirement of the husband but he, being an employee of National Insurance Corporation, cannot deny alimony pendente lite to the wife at the rate befitting his social and financial status.

Having heard the learned counsel for the parties and on perusal of the materials-on-record, it appears that the learned Trial Judge in the order impugned has come to a finding that the salary of the husband is Rs. 80,000/- per month.

The rate of alimony pendente lite should be normally between one-third and one-fifth of the net income of the husband.

The amount of alimony pendente lite @ Rs. 10,000/- per month is much less than the lesser side of the said yardstick.

The said amount of Rs. 10,000/- per month, therefore, is enhanced to Rs. 15,000/- per month with effect from March, 2022.

Mr. Chakroborty alleges that the husband is not paying the alimony pendente lite in terms of the order impugned, such submission of Mr. Chakroborty is heavily disputed by Mr. Sur.

Be that as it may, if there is any default in payment of alimony pendente lite in terms of the order impugned, the wife is at liberty to approach the learned Trial Judge for appropriate order.

The current alimony pendente lite at the enhanced rate shall be payable within the tenth of each month for which it falls due to the bank account of the wife. Mr. Chakroborty shall furnish details of the bank account of his client to Mr. Sur within a week from date.

Finding of the learned Trial Judge in the order impugned regarding the monthly income of the husband is based on the materials available on record as on the date of disposal of the said application for alimony pendente lite.

It is always open for the husband to approach the learned Trial Judge seeking variation and/or modification of the order of alimony pendente lite hereby modified upon proof of changed circumstances affecting his income.

The order impugned in both the revisional applications is modified to the extent indicated above.

The learned Trial Judge is requested to expedite the disposal of the suit subject to regular payment of alimony pendente lite.

C.O. 589 of 2019 and C.O. 532 of 2019 are disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)