

15 10.08.
AGM 2022
/
RKB
Ct
07

C.O. 485 of 2022

**Sri Anirban Patra
Vs
Moumita Bera @ Patra**

Mr. Ayan Banerjee,
Ms. Debasree Dhamali,
Ms. Riya Ghosh, ... For the petitioner.

Mr. Somnath Roy Choudhury,
... For the opposite party.

The subject matter of challenge in this revisional application is against an order dated 17th November, 2021, passed by Learned Additional District Judge, Fast Track Court, Serampore in Mat Suit No. 265 of 2020, staying the suit till the disposal of Misc. Case No. 24 of 2020 relating to a prayer for alimony pendente lite.

Admittedly, the petitioner/husband filed Mat suit for divorce against the respondent/wife. After entering appearance, the respondent/wife filed a Misc Case No. 24 of 2020 praying for alimony pendente lite.

The undenying position is that pending adjudication of Misc Case No. 24 of 2020 referred above, the further movement of the suit has been directed to be stayed by the Court below.

Mr. Ayan Banerjee, learned advocate appearing

for the petitioner/husband submits that without making adjudication of the prayer for alimony pendente lite, the suit itself cannot be ordered to be stayed.

Mr. Somnath Roy Chowdhury, learned advocate for the respondent/wife submits that the petitioner/husband is in default in the payment of monitory assistance, granted in a proceeding instituted under the Domestic Violence Act by the respondent/wife against the petitioner/husband.

It is thus submitted by the learned advocate for the opposite party that when there is huge arrears of maintenance as per order of the Domestic Violence Act, the further movement of the suit has been rightly stayed.

The Misc Case praying for alimony pendente lite being 24 of 2020 has been filed on 20th March, 2020. Objection against such prayer for alimony pendente lite has already been filed.

The proposition of law is very clear on this issue that further movement of the suit may be stayed, for the opposite party having committed default in the payment of alimony pendente lite, as per order of the Court below. Therefore, there has to be some arrears in the payment of alimony pendente lite, as per appropriate adjudication of the Court below.

Mere filing of the petition praying for alimony

pendente lite would not result in automatic stay of further movement of the suit.

The impugned order staying the movement of the suit is thus set aside with a direction upon the Court below to ensure expeditious disposal of alimony matters relatable to Misc Case No. 24 of 2020, providing sufficient opportunity of hearing to either of the parties to this case, preferably within a period of three months from the date of communication of this order, but without granting unnecessary adjournments, unless it is extremely unavoidable.

With this observation and direction, the revisional application stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)