

10. 21.02.2022
Ct. No.06
Tanmoy

M.A.T. 270 of 2021
With
IA No: C.A.N. 1 of 2021
With
IA No: C.A.N. 2 of 2021

Smt. Mina Das
-Versus-
Sri Mongal Chandra Das & Ors.
(Through Video Conference)

Mr. Debasis Kar, Adv.,
Mr. Subhajit Chowdhury, Adv.

...for the appellant.

Mr. Tapash K. Bhattacharya, Adv.,
Mr. Aviroop Bhattacharya, Adv.

...for the respondent no.1.

Mr. Alok Kr. Ghosh, Adv.,
Mr. Swapan Kr. Debnath, Adv.,

...for the Kolkata Municipal Corporation.

In Re: IA No: C.A.N. 1 of 2021

This is an application for condonation of delay of fourteen days in filing the appeal. Causes shown being sufficient, the delay is condoned. The application being IA No: C.A.N. 1 of 2021 is disposed of.

In Re: M.A.T. 270 of 2021
With
IA No: C.A.N. 2 of 2021

By consent of the parties, the appeal and the connected application are taken up together for hearing.

The respondent no.1 with a seemingly innocuous prayer for a direction on the Kolkata Municipal Corporation (K.M.C.) for disbursement of his retiral dues

approached the learned Single Judge. The learned Single Judge by an order dated January 7, 2021, disposed of the writ petition giving a direction upon the Municipal Authorities to take steps for disbursement of the retiral dues of the writ petitioner, in accordance with law, within a period of six months from the date of communication of that order. The said order of the learned Single Judge has been challenged by the appellant (Smt. Mina Das) claiming herself to be the legally married wife of respondent no. 1. We have granted her leave to appeal. She suggests that the respondent no. 1 in pension papers nominated one Manju Das describing her to be his wife. The respondent no.1 ought to have made the appellant the nominee with regard to his retiral dues. The appellant claims that her marriage with the respondent no. 1 was solemnized in the year 1985 but after the marriage, she was subjected to torture and cruelty by the respondent no. 1. At present, she is residing at her matrimonial house at Halisahar, Nadia while the respondent no. 1 is living separately. It is submitted by the appellant that she has filed a proceeding under section 125 of the Code of Criminal Procedure, 1973 against the respondent no.1 on which the learned Magistrate granted maintenance of Rs. 3000/- per month in her favour. It is the case of the appellant that nomination in favour of Smt. Manju Das was illegal since the appellant being the legally married wife of respondent no. 1 is entitled to the family pension.

The respondent no.1 has obtained the order from the learned Single Judge behind her back suppressing such fact with the sole object of depriving her of her legitimate rights.

Mr. Ghosh, learned Advocate representing the Kolkata Municipal Corporation, submitted before us that in the nomination form the respondent no.1 has nominated Smt. Manju Das in respect of his pension along with a marriage certificate as proof of marriage between them. It has further been submitted that in compliance with the order of the learned Single Judge, the retiral dues of the respondent no. 1 including gratuity and pension have already been disbursed to him.

We were not inclined to delve into the complicacies of the matrimonial life of the appellant and respondent no.1, but at the same time keeping in mind the long drawn matrimonial disputes between them and in particular to ensure that the appellant is not reduced to a state of destitution or vagrancy, we suggested to the parties to explore the possibility of an amicable settlement so that the disputes between them are finally resolved.

Fortunately, after the matter being heard for a few days, today, the parties have come up with a proposal for mutual settlement. The respondent no.1 has proposed to pay a sum of Rs. 4,00,000/- (Rupees Four Lakh) as full and final settlement towards the claim of the appellant. The appellant accepts such proposal.

A cheque of Rs.2,00,000/- (Rupees Two Lakh) has been handed over to the appellant by the respondent no.1 as the first instalment. It has been undertaken by the respondent no.1 that the remaining Rs.2,00,000/- (Rupees Two Lakh) shall be paid by 31st May of this year.

The appellant undertakes that she will not make any further claim towards her alimony (permanent or temporary) and the family pension as the wife of the respondent no.1 in the event the said sum of Rs.4,00,000/- (Rupees Four Lakh) in total, is paid to her by the respondent no. 1 on or before 31st May 2022 .

In view of the settlement arrived at between the parties, the proceedings under Section 125 of the Code, being M.R. Case no. 284 of 2006 pending before the learned Judicial Magistrate 3rd Court at Barrackpore, 24 Parganas (North) shall remain permanently stayed subject to the payment of the balance amount of Rs.2,00,000/- (Rupees Two Lakh) by the respondent no. 1 within 31st May 2022. If the respondent no.1 fails to make such payment, this stay order will stand vacated and the appellant will be at liberty to proceed with the said proceedings under Section 125 of the Code of Criminal Procedure, 1973.

With these observations, M.A.T. 270 of 2021 and the connected IA No: C.A.N. 2 of 2021 are disposed of.

Let urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)