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Ct. 18
01.04.2022

C.O. No. 756 of 2019

**Smt. Chandrima Roy
Vs.
Sri Ajay Ray**

Mr. Gopal Ch. Ghosh,
Mr. Rajkrishna Mondal ... For the petitioner.

Mr. Nawal Kishore Chatterjee ... For the opposite party.

The revisional application under Article 227 of the Constitution of India is at the instance of the wife, the respondent of the connected Matrimonial Suit No. 80 of 2013 and is directed against order dated January 08, 2019 passed by the learned Judge, Fast Track, 3rd Court at Barasat, District – 24 Parganas (North) in the said matrimonial suit.

The opposite party has filed the said matrimonial suit seeking dissolution of the marriage between the parties by a decree of divorce.

In the said suit, the petitioner filed an application under Section 24 of the Hindu Marriage Act, 1955 for alimony pendente lite.

The learned Trial Judge by the order No. 22 dated June 12, 2015 dismissed the said application holding that the petitioner is getting maintenance from an order passed in a proceeding under Section 125 of the Code of Criminal Procedure, as such she is not entitled to alimony pendente lite.

The petitioner on September 01, 2018 thereafter filed an application under Section 151 of the Code of Civil Procedure praying alimony pendente lite upon recall of the earlier order dated June 12, 2015.

The learned Trial Judge by the order impugned has dismissed the said application holding that the earlier order rejecting the prayer of the petitioner for alimony pendente lite was a reasoned order and the wife has accepted the said order having not assailed it in any higher forum.

Dismissal of the earlier application for alimony pendente lite is no ground to refuse to entertain the subsequent application as the relevant consideration for deciding an application for alimony pendente lite is the circumstances prevailing as on the date of filing of such application.

The order impugned, for the aforesaid reason, is set aside.

The learned Trial Judge is requested to decide the application filed by the petitioner on September 01, 2018 for alimony pendente lite afresh, in accordance with law.

In view of the nature of the application it the learned Trial Judge is further requested shall make all endeavour to dispose it of as expeditiously as possible, preferably within a period of two available effective working months of his Court from the date of communication of this order and in doing so shall not grant any unnecessary adjournment to either of the parties.

C.O. 756 of 2019 is allowed 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.)