02.09.2022
Item No.15
Ct. No.7
CHC
(disposed of)

C.O.1334 of 2022

Shri Amit Agarwala
Vs.
Smt. Shruty Tamakuwala (Agarwala)

Mr. Sarajit Sen,
Mr. Tapas Singha Roy
...for the petitioner

Mrs. Susmita Saha Dutta,
Mr. Niladri Saha
...for the opposite party

The subject-matter of challenge in this case is against the order dated 30th April, 2022, passed by learned Additional District Judge, Fast Track Court-I, Malda, in Mat Suit No.10 of 2019, granting *alimony pendente lite* at the rate of Rs.19,000/- per month to respondent/wife, with effect from the date of filing of the petition.

While disposing of the prayer for *alimony pendente lite* the petitioner/husband was further directed to pay Rs.20,000/- as litigation cost.

Learned advocate appearing for the petitioner/husband at the very threshold of this case proposes for relegating this matter to the trial court for hearing afresh of the prayer for *alimony pendente lite* after permitting the petitioner/husband to adduce evidence for the purpose of revealing the earning capacity of the petitioner/husband.

It is contended by the learned advocate for the petitioner that the prayer for *alimony pendente lite* has been granted upon considering the affidavit-of-assets furnished by the parties to this case, and petitioner/husband was not given any scope to adduce any evidence.

Learned advocate for the petitioner further argues that quantum of *alimony pendente lite* has been inappropriately assessed as the commitment liabilities of the petitioner/husband has not been properly considered by the court below.

The assessment of the income of the husband, according to the petitioner, has been erroneously assessed even after finding some inconsistencies in the documents produced before the court below.

Per contra, Mrs. Susmita Saha Dutta, learned appearing for the opposite party/wife submits that the court below has considered the affidavits of assets furnished by both the parties to this case, and considered the needs and means of the parties while deciding the quantum of *alimony pendente lite* in this case.

It is thus submitted by the learned advocate for the opposite party/wife that the impugned order does not call for any interference.

Having considered the submission of both sides, it appears that quantum of *alimony pendente lite* already granted in this case is only under dispute in this case. For assessing the quantum of *alimony pendente lite*, the court below had the occasion to obtain affidavit of assets. The income tax return of the husband was also taken into consideration. The husband/petitioner is the businessman.

As per assessment of the court below, the opposite party/wife has no income of her own, and while she has a monthly expenditure of Rs.20,500/- per month to sustain her life. Presently, the wife has been residing in her father's house. There were different figures mentioned regarding the monthly income of the petitioner in the affidavit of assets of husband/petitioner. In the return of the assessment year for the year 2020-2021, the total income earned by the husband was shown to Rs.5,89,630/-. Therefore, upon considering all such needs as available before the court below, the prayer for *alimony pendente lite* allowed was assessed by the court below. Since this order is upon consideration of the affidavit of assets furnished by the parties, and also after giving a hearing for the purpose to both the parties, this order should not be interfered with being supported by reasons and that to discretion exercised by the court below appears to have been lawfully exercised. The impugned order does not call for any interference for the reasons disclosed hereinabove.

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

Parties are directed to make communication of this order to the court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)