

14.07.2022
sayandeep
Sl. No. 29
Ct. No. 05

WPA 11515 of 2022

Smt. Tanushree Bose
-Versus-
The Union of India & Ors.

Ms. Malyasree Maity

... for the petitioner

Mr. Sujit Mitra

...for the UOI

Mr. Soumya Mazumdar

Mr. Uttam Kumar Mondal

Ms. M. Roy

.....for the respondent Nos. 2 to 7

Mr. Debajit Deb

....for the respondent No. 8

The writ petitioner is the estranged wife of the respondent no. 8. The petitioner prays for a direction on the respondent authorities including the National Thermal Power Corporation Limited to disburse the medical allowances to the petitioner and prohibiting the said respondent from releasing the pensionary benefits to the petitioner's husband, the private respondent. The petitioner, as expressed through her counsel, is due to receive monthly maintenance amount of Rs. 10,000/. This was the amount fixed by the High Court on a revisional application made by the husband.

Counsel submits that the petitioner was compelled to file 13 execution cases before the Tamluk Court for realizing her monthly maintenance amount and that currently an amount of Rs. 1.10 lakhs remains outstanding to the petitioner. Counsel also submits

that there is an immediate threat to the petitioner being deprived of her just dues as the respondent No. 8 has encumbered his assets and has also cancelled the nominations of the petitioner in favour of the private respondent's elder sister.

Learned counsel appearing for the NTPC submits that although the petitioner is entitled to medical benefits as the wife of the private respondent, the said benefits can only be disbursed on presentation of a medical card. It is also submitted that the private respondent who is due to retire in September, 2022 is not entitled to any pensionary benefits. The respondent No. 8/husband submits that all monthly maintenance dues have been paid to the petitioner and also refers to the fact that no warrant or any such punitive order has been made by the Court under Section 125(3) of The Code of Criminal Procedure, 1973.

Upon hearing learned counsel appearing for the parties, this Court is aware of the limitations of its jurisdiction to pass orders where the dispute is essentially in the nature of a private dispute. The appropriate course is under Article 227 of the Constitution of India where either of the parties can approach the Court for relief against an order made by the subordinate Court.

The Court however cannot shut its eyes to the admitted facts before the Court and the right to

maintaining a standard of life as contended by the petitioner. The action of the private respondent has infringed that right. The admitted facts are, first, that the petitioner continues to be the legally wedded wife of the respondent No. 8 and there is no matrimonial suit pending in any Court for dissolution of the marriage. Second, the petitioner has filed 13 execution cases for payment of her monthly maintenance. If the private respondent had indeed been proactive in making such payments within time, there would have been no need for the petitioner to file 13 execution cases, two of which are presently pending before the concerned Court. This Court can hence reasonably presume that the private respondent makes payment only upon the petitioner filing an execution case before the Tamluk Court. The third admitted fact is that the petitioner has no other income apart from the maintenance while the private respondent is an employee of Government company and continues to get salary in around Rs. 2 lakhs per month. Fourth, the fact of transfer of nominations in favour of the private respondent's sister is also not disputed. Hence, the apprehension of the petitioner that the private respondent may not have adequate amounts at its disposal to continue to pay the monthly maintenance amount to the petitioner appears to have the factual basis.

The defence of the Tamluk Court not issuing any warrant or similar punitive measures against the respondent No. 8 husband is more a reflection of the inadequacies of the protective mechanisms and not defence which can colour the views of the Court in favour of the private respondent.

Since the Court recognizes its limitations of passing a restraint on the NTPC in terms of releasing the retirement benefits of the respondent No. 8, the Tamluk Court should take the above facts in account and act appropriately including for payment of the outstanding amounts to the petitioner in the proceeding pending before it. The petitioner shall be at liberty of approaching the proper forum for the other reliefs.

WPA 11515 of 2022 is disposed of in terms in the above.

(Moushumi Bhattacharya, J.)