

09.09.2022

Court No.32
rpan/01

MAT 1340 of 2017

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IA No.1 of 2017 (Old No. 8307 of 2017)

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IA No.2 of 2017 (Old No. 8308 of 2017)

Rajib Kumar Mal

- Versus -

Soma Mal & ors.

Mr. Goutam Banerjee,
Ms. Anandamayi Ghosh,
Ms. Priya Dey

....for the Appellant.

Mr. Sayantan Bose,
Mr. Rajarshi Dutta,
Mr. S. Mukherjee,
Ms. Ankita Choudhury

...for the respondent no.1.

Mr. Ajit Kumar Chaubey

...for the respondent nos. 2 to 5.

The appellant married the respondent no.1 on 20th April, 2001. They were blessed with a male child on 20th July, 2002. Subsequent thereto, there was a marital discord and the respondent no.1 preferred a matrimonial suit, being MAT Suit No.1080 of 2016, which is still pending before the learned District Judge, North 24-Parganas. The respondent no.1 also filed an application for maintenance under Section 125 of the Code of Criminal Procedure. In the midst thereof, the appellant, who was an employee of Central Reserve Police Force (in short, CRPF), took voluntary retirement with effect from 31st January, 2017. Alleging that the appellant was not paying the maintenance amount as directed by the competent forum, the respondent no.1

submitted a representation to the respondent no.5 with a prayer to withhold disbursement of the appellant's pensionary benefits. As the said representation was not responded to, the respondent no.1 preferred the writ petition, being W. P. No.13706 (W) of 2017. The said writ petition was disposed of by an order dated 21st June, 2017 directing the appellant's employer not to disburse the retiral benefits of the appellant till such time the proceedings deciding the claim for maintenance is finally decided. Aggrieved by the said order, the present appeal has been preferred by the appellant.

Mr. Banerjee, learned advocate appearing for the appellant submits that the appellant took voluntary retirement on 31st January, 2017 but due to the order impugned in the present appeal, his retiral benefits have been withheld. He has drawn our attention to a memo dated 16th May, 2017 issued by the respondent no.5 detailing the pensionary benefits payable to the appellant.

Mr. Dutta, learned advocate appearing for the respondent no.1 submits that as the maintenance amount was not being regularly paid to the respondent no.1, the appellant's employer was rightly directed to withhold the pensionary benefits.

Mr. Chaubey, learned advocate appearing for the respondent nos. 2 to 5 submits that the appellant's pensionary benefits have been withheld in view of the order passed by the learned single Judge.

Records reveal that a co-ordinate Bench of this Court by an order dated 12th March, 2020 directed the appellant and the respondent no.1 to resolve the dispute and detailed the conditions towards settlement. Thereafter, the pandemic intervened and the matter came up for hearing before this Court in the month of July, 2022.

Today, the learned advocates appearing for the respective parties submit that the appellant and the respondent no.1 have arrived at a settlement and the terms of settlement have been prepared and signed by appellant and the respondent no.1. Let the document detailing the terms of settlement, as produced, be kept on record.

The said terms of settlement run as follows:

- a) A sum of Rs.10 lakhs shall be paid by the appellant to the respondent No.1 as permanent alimony within 15 days from the date of receipt of retiral benefits towards maintenance of both the son and the wife.*
- b) The immovable property in Hooghly district being a 5 decimal plot of land lying and situated at Bajemelia, J.L. No. 12 under Khatian No. 1792, Dag No. 790 and the said property in under K.G.D. Gram Panchayat under P.S. Singur, Dist. Hooghly standing in the joint names of the husband and wife shall be divided between them allowing adequate frontage to either party.*
- c) Upon receiving the payment of the said sum of Rs.10 lacs by the husband to the wife and on division/sale of the two properties in the manner aforesaid, the wife shall withdraw the proceedings instituted by her being M 370 of 2016 (Soma Mal & Anr. -vs- Rajib Kumar Mal) pending before the Learned Chief Judicial Magistrate at Barasat.*
- d) The husband and the wife shall also obtain divorce on mutual consent and for such purpose shall jointly take steps in the divorce proceeding being Mat. Suit*

No.1080 of 2016 pending before the District Judge, North 24 Parganas.

- e) The wife shall also withdraw the criminal revision application being CRM No. 95 of 2017 pending before the Sessions Judge, North 24 Parganas.*
- f) The property of 2 decimals of land out of 1.70 acre of mouza Khagragachi, J.L. No. 4 under Khatian Nos. 149 and 351 now is under Khatian No.834, Dag No. 72 and the aforesaid property is within the area of Baraberi Gram Panchayet under P.S. Singur, Dist. Hooghly which is recorded in the name of wife, 1 decimal of land out of the immovable property be transferred in the name of the husband by executing registered deed. The husband shall bear the necessary cost.*
- g) Both the husband and the wife shall bear expenses for sale and vision of the two properties in equal proportion.*
- h) In this terms of conditions of MAT No. 1340 of 2017 may be disposed of.*
- i) The appellant undertakes to withdraw the criminal proceedings against the wife being No. 1949 of 2016.*
- j) The husband and the wife have mutually agreed and entered into the present terms of settlement out of their free will and without any coercion or undue influence.*

In view of such settlement, as arrived at between the parties, we set aside the order of the learned Single Judge directing the employer of the appellant to withhold the retiral benefits of the appellant.

The respondent nos. 2 to 5 are, accordingly, directed to disburse the retiral/pensionary benefits to the appellant, within a period four weeks from the date of communication of this order, subject to compliance of necessary formalities, if any,.

Upon receipt of the pensionary benefits, the appellant shall disburse the sum of Rs.10 lakhs towards permanent alimony to the respondent no.1 in terms of

the settlement. Both the parties shall strictly comply with all the terms as detailed in the settlement.

With the above observations and directions, the appeal, being MAT 1340 of 2017 and the connected applications, being IA No.1 of 2017 (Old No. 8307 of 2017) and IA No.2 of 2017 (Old No. 8308 of 2017) are disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Raja Basu Chowdhury, J.) (Tapabrata Chakraborty, J.)