

23.11.2022
Item No.46
Ct. No.7
CHC
(disposed of)

C.O.3474 of 2022

Suman Roy
Vs.
Trisha Mondal (Roy)

Mr. Soumik Ganguli,
Mr. Tanmay Mukherjee
...for the petitioner

Mr. Kallol Kr. Basu,
Ms. Tithi Majumder
...for the opposite party

Subject-matter of challenge in this case is against the order dated 9th November, 2022, passed by learned Additional District Judge, 5th Court, Barasat, North 24 Parganas, in Misc. Case No.15 of 2022, arising out of Mat. Suit No.31 of 2018 giving rise to Mat Execution Case No.21 of 2018, attaching the salary of the petitioner, for the non payment of the arrear sum of money, liable to be recovered in connection with pending execution case.

Mr. Tanmay Mukherjee, learned advocate appearing for the petitioner produces copy of notice, served upon the Caveator/opposite party.

Mr. Mukherjee, upon adverting to order dated 28th September, 2022 submits that the court below itself noted that some irregularities were apparent on the face of arrear claimed amount.

Upon considering of such irregularities, the Mat. Execution Case No.21 of 2018, directing bank authority to deduct the arrear claimed amount, from the salary of the petitioner/husband was kept in abeyance till 9th November, 2022. A cheque thereafter, disclosing the admitted arrear claimed amount was then sought to be deposited, which would not be collected for the reasons disclosed in the petition.

It is at this juncture for the non payment of the admitted arrear amount, there has been an order attaching the salary of the petitioner/husband.

Mr. Mukherjee is ready with the money to deposit admitted arrear amount. The same according to Mr. Mukherjee comes to Rs.46,000/- (Rupees Forty Six Thousand only). Mr. Mukherjee undertakes to make payment of the same forthwith.

Mr. Basu, learned advocate appearing for the opposite party submits that the admitted amount, sought to be deposited, does not match with the outstanding amount claimed in the pending execution proceeding.

Learned advocate for the opposite party proposes for enhancement of the quantum of the maintenance amount together with settling accounts regarding arrear sum of money, liable to be recovered from the petitioner.

Upon perusal of the impugned order, the attachment of salary is supposed to take effect from this day.

That being the position, bearing in mind the admission disclosed by Mr. Mukherjee appearing, for the petitioner/husband, the admitted arrear sum amounting to Rs.46,000/- (Rupees Forty Six Thousand) may be deposited to the petitioner forthwith, with a direction upon both the parties to furnish a statement of accounts each upon mutually exchanging the same between the parties, before the court below within three weeks from the date of communication of this order.

If the amount is sought to be deposited taking advantage of this order, the same may be allowed to be deposited before the court below, and may be allowed to be handed over to opposite party/wife upon receiving receipt therefor.

Subject to the deposition of statement of accounts, revealing the arrear claimed amount within the period mentioned hereinabove, the arrear sum of money may be decided by the court below in accordance with law providing sufficient opportunity of hearing to both the parties.

Such exercise may be concluded before the third week of January, 2023. Till such time, the attachment

of salary passed by the court below may not be given effect to.

It is further clarified that if the admitted arrear amount, as mentioned hereinabove is not deposited forthwith, the protection given to the petitioner shall stand automatically vacated without making any further reference to the parties.

With this observation/direction, 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.)