

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) NO. 1089 OF 2022

Bindyabasini Behera and another* *Petitioners

Mr. Debasish Samal, Advocate

-versus-

Srimanta Hati

.... ***Opp. Party***

**CORAM:
JUSTICE K.R. MOHAPATRA**

Order No.

**ORDER
16.02.2022**

1. This matter is taken up through hybrid mode.
2. This writ petition has been filed assailing the order dated 25th November, 2021 passed by Learned Judge, Family Court, Cuttack in C.M.A. No. 24 of 2020 arising out of C.P. No. 486 of 2018.
3. It is submitted by Mr. Samal, learned counsel for the Petitioners that during pendency of the Civil Proceeding filed by the Opposite Party under Section 13(1) of the Hindu Marriage Act, 1955 (for short the 'Act') for dissolution of marriage by divorce, they filed an application under Section 24 of the Act for *pendent lite* maintenance and for litigation expenses. Learned Judge, Family Court, without considering the matter from its proper perspective, directed the Opposite Party to pay an interim maintenance of Rs. 4,000/- per month to the Petitioner No. 1 and Rs. 3,000/- per month to the Petitioner No. 2.
4. It is further submitted that the Opposite Party is an Engineer and is serving in a reputed Company. His monthly salary is Rs. 36,800/- and his father being a school teacher is able to maintain

himself. The Petitioner is also getting income from house rent. On the otherhand, the Petitioner No. 1 is working as a Laboratory Technician in Central Red Cross, Blood Bank, Cuttack and is getting salary of Rs. 15,320/- and her net salary is Rs. 13,395/-per month. The Petitioner No. 1 has to pay house rent of Rs. 7,000/- per month. Thus, it is very difficult on the part of the Petitioner to maintain herself and her daughter with a meager salary as well as *pendent lite* maintenance granted by learned Judge, Family Court, Cuttack. Thus, the *pendenti lite* maintenance requires enhancement.

5. Upon hearing, learned counsel for the Petitioners and on perusal of the record, it appears that the Petitioner No. 1 is serving as Laboratory Technician in the Central Red Cross, Blood Bank, Cuttack and is getting salary of Rs. 13,395/- per month. On the other hand, the Opposite Party is serving as an Engineer and he is getting Rs. 36,800/- per month as observed by learned Judge, Family Court, Cuttack in the impugned order.

6. Besides the liability to maintain his wife and child, the Opposite Party has also a duty towards his parents to maintain them. Although it is submitted by learned counsel for the Petitioners that the father of the Opposite Party is serving as a teacher but no material to that effect is forthcoming. It further appears that the Opposite Party is paying house rent of Rs. 7,000/- per month and also paying Rs. 12,000/- per month to the ailing parents. He is also spending Rs. 10,000/- per month for fooding, medicine and clothing etc.

7. Taking into consideration the materials available on record and striking a balance between the liability of Opposite Party and his obligation to maintain the Petitioners, the learned Judge, Family

Court as an interim measure granted *pendent lite* maintenance of Rs. 4,000/- per month to the Petitioner No. 1 and Rs. 3,000/- per month to the Petitioner No. 2. The *pendenti lite* maintenance granted in favour of the Petitioners does not appear to be unreasonable. Since the impugned order is a reasoned one and has been passed taking into consideration materials on record, I am not inclined to entertain the writ petition in exercise of power under Article 227 of the Constitution.

8. Accordingly, the writ petition being devoid of any merit stands dismissed.

(K.R. Mohapatra)
Judge

