

IN THE HIGH COURT OF ORISSA AT CUTTACK

MATA No.49 of 2018

Vivekananda Singh

....

Appellant

Mr. H.K. Mohanta, Advocate

-versus-

Anupriya Singh

....

Respondent

Mr. S.Dash, Advocate

CORAM:

JUSTICE S. TALAPATRA

JUSTICE B. P. ROUTRAY

ORDER

30.06.2022

Order No.

07.

1. The matter is taken up through Hybrid mode.
2. Mr. H.K. Mohanta, learned counsel appearing for the Appellant has reported this Court that he made two communications to the Appellant, but the Appellant did not communicate any instructions in terms of the order dated 22.06.2022.
3. Mr. S. Dash, learned counsel appearing for the Respondent has submitted that immediately after the decree of divorce was issued, the Appellant contracted the second marriage.
4. In view of that, this Court had occasion to observe that there is no possibility of reconstruction of the marriage. As such, the appeal will be decided on the question of determination of alimony.
5. It may be noted here that the Respondent in MATA No.49/2018 has filed a cross objection under Order 41 Rule 22 of

the C.P.C. for enhancing the alimony in the changed circumstances.

6. We have taken both the appeal and the cross objection for disposal today.

7. In the cross objection, the Respondent of MATA No.49/2018 has urged this Court for redrawing the alimony considering the present financial strength of the Appellant (the husband), who is working as Asst. Manager, Mahanagar Telephone Nigam Limited (MTNL), Mumbai.

8. According to Mr. S. Das, learned counsel, while the judgment dated 09.01.2018 was passed, the learned Judge, Family Court, Baripada allowed the alimony to the extent of Rs.12,00,000/- for future maintenance to be paid within two months from the date of the said judgment. Mr. Das has categorically stated that no amount towards the same has been paid to the Respondent as yet. Even for his non-participation, the mediation has failed. During passing of the judgment, the Appellant was working as the Asst. Manager, MTNL, Mumbai and his income at that time was taken for determination of the alimony. Mr. S. Das, learned counsel, has contended that after four years from the date of judgment, it can be assumed and inferred that the Appellant has progressed in his career and his earning has definitely increased.

9. From the other side, Mr. H.K. Mohanta, learned counsel, has submitted that he has no instruction and as such he would refrain from making any submission on the income of the Appellant.

10. Having situated thus, we are of the view that the appeal filed by the Appellant being MATA No.49/2018 shall be dismissed as no materials have been placed before us to infer that the alimony decided whimsically. Hence, MATA No.49/2018 stands dismissed.

11. Having due regard to the salaried income of the Appellant [the Respondent in the cross-objection], we are of the view that the Respondent [the cross objector] is entitled to receive more than what has been determined. In view of that, we are persuaded to enhance the alimony to the extent of Rs.15,00,000/- (rupees fifteen lakhs) which shall be paid within a period of two months from today. As there had been no payment, the entire amount has to be paid within the said stipulated time. In the event of non-payment, the Respondent [the cross objector] may put the decree in execution. It is made further clear that failure of payment within the stipulated time would make the Appellant liable to pay 7% interest on the said amount, from today till the money is paid. It is needless to mention that for realizing the said amount, the decree shall be treated as the money decree. For that purpose, attachment of the properties of the Appellant, if required, can be made. In the execution proceeding, on the first day of appearance, sufficient bank-guarantee has to be procured from the Appellant in order to discharge the liability. If such bank-guarantee is produced, the Appellant will not be permitted to raise any objection against the decree.

12. In terms of the above, the cross objection stands allowed.

13. Registry is directed to prepare the decree.

14. In view of the observation and directions made above, LCRs be returned. A copy of this order be furnished, free of cost, to the counsel of the parties.

(S. Talapatra)
Judge

(B.P. Routray)
Judge

