

IN THE HIGH COURT OF ORISSA AT CUTTACK
MATA No.38 of 2020

MATA No.38 of 2020 & 104 of 2020

Manoj Senapati
Swati Patra

(in MATA No.38 of 2020)
(in MATA No.104 of 2020)

.... ***Appellants***

Mr. A. Pattnaik, Advocate in MATA No.38 of 2020
Mr. Amit Prasad Bose, Advocate in MATA No.104 of 2020

-versus-

Swati Patra
Manoj Senapati

(in MATA No.38 of 2020)
(in MATA No.104 of 2020)

.... ***Respondents***

Mr. A.P. Bose, Advocate in MATA No.38 of 2020
Mr. A. Pattnaik, Advocate in MATA No.104 of 2020

CORAM:

SHRI JUSTICE S. TALAPATRA
SHRI JUSTICE B. P. ROUTRAY

ORDER

7.7.2022

Order No.

10.

1. The matter is taken up through Hybrid mode.
2. Heard Mr. A. Pattanaik, learned counsel appearing for the Appellant in MATA No.38 of 2020 and the Respondent in MATA No.104 of 2020 as well as Mr. A.P. Bose, learned counsel appearing for the Respondent in MATA No.38 of 2020 and the Appellant in MATA No.104 of 2020.
3. So far the appeal being MATA No.38 of 2020 is concerned, this appeal has been heard with appeal being MATA No.104 of 2020 filed by the Respondent of MATA No.38 of 2020. In MATA No.104 of 2020, the appellant is represented by Mr. A.P. Bose, learned counsel whereas Mr. A. Pattanaik, learned counsel

represents the Respondent (husband). It is needless to mention that both the appeals emerge from the same judgment i.e. judgment dated 20th December, 2019 delivered in C.P. No.5 of 2014 by the Judge, Family Court, Puri. On agreement by the counsel, by order dated 30th June, 2022, this court has observed that, both the appeals have been structured on legality of determination of the alimony. That apart, the question relating to return of *Streedhan*, as described in the Schedule 'A' of the divorce petition, will be considered by us as ancillary to the main issue.

4. Both the counsel for the parties have stated before us that both the Appellant and the Respondent in the respective appeals have contracted second marriage after the decree of divorce was passed and they are now leading their respective conjugal lives without interference of each other.

5. In the appeal being MATA No.38 of 2020, the Appellant has challenged the quantum of the alimony and the directions to return *Streedhan* as per the Schedule 'A' of the divorce petition. In the appeal being MATA No.104 of 2020, the Appellant has questioned the determination of alimony, as according to the said appellant, the quantum is so less, it requires to be upgraded with a just amount.

6. We have heard the counsel for the parties. In the changed circumstances, we are of the view that, on the day of passing of the judgment, the quantum of alimony as was determined to be paid to the Respondent of the appeal being MATA No.38 of 2020, does not require any interference from us. The Respondent in that appeal [MATA No.38 of 2020] has re-married and hence, the alimony that has assessed, according to us, be deemed as adequate and sufficient.

So far the issue of returning *Streedhan* is concerned, Mr. A. Pattanaik has strenuously argued that there is no evidence that *Streedhan* was handed over to the Appellant, i.e, the husband and those are retained by him. We are unable to accept that contention, inasmuch as, the Respondent in MATA No.38 of 2020, in her testimony, has clearly stated that even though she was unemployed at the time of marriage, but from the riches of her father, those golden ornaments and other articles were purchased and given to her on the occasion of marriage. Those gold ornaments and other articles were sent to the custody of the appellant in MATA No.38 of 2020 and he had never returned those articles including the gold ornaments. In this regard, the Judge, Family Court, Prui, while issuing the direction to return *Streedhan*, has observed in para 8 of the judgment that, the Respondent (wife) in her evidence has stated that her father had handed over all the articles to the Respondent on the day of marriage as per Schedule-A of the petition and the said articles were sent to the Respondent and to his father who received the same and all the articles, are now in the possession of the respondent in the matrimonial home. Thereafter, the Judge, family court has returned the categorical finding which reads as under:

“The aforesaid evidence of P.W.1 has not been challenged by the respondent during cross-examination. R.W.1 has not also given any evidence denying the fact that ‘A’ Scheduled property mentioned in the petition of the Petitioner were not given to him and the same are not within his possession. Therefore, when divorce between the parties has been allowed, it would be expedient to

direct the respondent to return the 'A' Scheduled properties to the petitioner.”

7. It was further directed that the alimony will be paid and *Streedhan* will be returned as per Schedule 'A' of the divorce petition within a period of three months from the date of judgment.

8. We do not find any reason to interfere with the said finding. Accordingly, the appeal being MATA No.38 of 2020 being bereft of merit stands dismissed.

9. The Appellant in MATA No.38 of 2020 is hereunder directed to pay the alimony to the extent of Rs.3 lakhs and to return *Streedhan* in terms of the Schedule 'A' of the divorce petition within a period of two months from today. Else the appellant in MATA No.104 of 2020 will be entitled to carry out execution for recovery of the said money and those articles as described in Schedule-A of the divorce petition.

10. Draw the decree accordingly and send back LCRs. thereafter.

(S. Talapatra)
Judge

(B.P. Routray)
Judge