

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**MATA No. 39 of 2019**  
**Gopichand Behera** .... **Appellant**  
Ms. Suravi Mohanty, Advocate

-versus-  
**Bijayini Das** .... **Respondent**

None

**CORAM:**  
**JUSTICE S. TALAPATRA**  
**JUSTICE M.S.SAHOO**

**ORDER**  
**17.8.2022**

**Order No .**

**6**

1. This matter is taken up through hybrid mode.
2. Despite due notice from this Court, when the matter is called out today, none appeared for the respondent. However, from the records it reveals that even when the matter was taken up on 08.08.2022, there was no representation from the respondent.
3. It appears to us that the ground of objection taken in the appeal may not be opposed by the respondent. However, we will not proceed to hear the appeal on such premises.
4. Ms. Mohanty, learned counsel appearing for the appellant submits that while passing the decree, on a petition under section 13B of the Hindu Marriage Act, 1955, payment of alimony has been directed going beyond the settlement, based on which the suit for divorce by mutual consent was filed. Ms. Mohanty, learned counsel has further submitted that there was no separate application or mention under section 25(1) of the Hindu Marriage Act, 1955 seeking alimony beyond the settlement.
5. We have keenly assessed the judgment dated 21.1.2019 as delivered in Civil Proceeding No.60 of 2018 by the Judge, Family Court, Baripada. We find that in the judgment the terms of the settlement has been delineated, but there is no mention in respect

of alimony. But, abruptly, the Judge, Family Court has directed as follows :

*“While allowing the prayer in the petition it is the duty on the part of the court to consider the permanent alimony to be provided by the husband petitioner to his wife petitioner. So, the wife/petitioner in such circumstances is also justified to be provided with permanent alimony. Hence the order.*

6. Having observed thus, a sum of Rs.3,00,000/- (Rupees three lakhs) has been directed to be paid by the appellant to the respondent. The said observation is challenged under this appeal.

7. We have no hesitation to hold that the Judge, Family Court had no business if travelling beyond the settlement between the parties. His duty was only to pass decree on the basis of the terms of settlement, if found lawful.

8. However, we are not oblivious to mention that if, for any reason the respondent faces distress or vagrancy she may approach the court for alimony or maintenance under section 25(1) of the Hindu Marriage Act. Even after decree of divorce either of spouse can approach for support.

9. Having observed thus, the direction in respect of permanent alimony is interfered with. For the reasons, as stated above, the rest of the judgment and decree is affirmed. In the result, this appeal stands allowed. Draw the decree accordingly.

**(S.Talapatra)**  
**Judge**

**(M.S.Sahoo)**  
**Judge**