

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No. No.221 of 2017

Pavada Venkata Suri Appa Rao* *Petitioner

Mr. Pradipta Verma, Advocate

-versus-

***Gumalla Komali @ Pavada Komali and* *Opp. Parties*
*another***

Miss Pratyusha Naidu, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

28.11.2022

Order No.

4. 1. This matter is taken up through Hybrid mode.
2. This RPFAM has been filed assailing the order dated 7th January, 2017 (Annexure-5) passed by learned Judge, Family Court, Bhubaneswar in CRP No.214 of 2015, whereby the Petitioner has been directed to pay interim maintenance of Rs.1,000/- per month to Opposite Party No.1 and Rs.5,000/- per month to Opposite Party No.2 from the date of filing of the petition.
3. Learned counsel for the Petitioner submits that relationship between the parties is not disputed. Petitioner only assails the quantum of interim maintenance awarded in favour of Opposite Parties. It is submitted that Opposite Party No.1 is a working lady and she has equal obligation to maintain the child- Opposite Party No.2 as that of the Petitioner. Learned Judge, Family Court, while adjudicating the matter, did not at all take the same into consideration. He further submits that since the Opposite Party No.1 has an independent source of income award of interim maintenance in her favour is not sustainable. He,

therefore, prays for a direction to reconsider the quantum of maintenance.

4. Miss Naidu, learned counsel for Opposite Party No.1 submits that as the order impugned herein is interlocutory in nature, the RPFAM is not maintainable in view of the bar under Section 19(4) of the Family Courts Act, 1984. Considering the income of the Opposite Party No.1, learned Judge, Family Court, Bhubaneswar has directed to pay a meager amount of Rs.1,000/- per month to Opposite Party No.1 as interim maintenance. Further, the interim maintenance awarded in favour of Opposite Party No.2 should not be interfered with, as the same is not unreasonable. She, therefore, prays for dismissal of the RPFAM.

5. Taking into consideration the submissions of learned counsel for the parties and on perusal of record, it appears that initially the Petitioner had filed Writ Petition (Civil) assailing the order impugned herein, which was converted to RPFAM vide order dated 1st May, 2017 passed by this Court. Thereafter, the Petitioner has not taken any step to get the matter listed. Only when the NBW was issued against him for non-payment of arrear interim maintenance, the Petitioner woke up from his great slumber and filed IA No.393 of 2022 to stay the NBW issued against him. It is submitted by learned counsel for the parties that proceedings under Section 125 Cr.P.C. is at the stage of recording of evidence of the parties. In that view of the matter, I am not inclined to interfere with the interim maintenance directed to be paid by the Petitioner.

6. Hence, the RPFAM is disposed of with a direction that the Petitioner may move appropriate application before learned Judge, Family Court, Bhubaneswar for recall of the NBW issued against him. Learned Judge, Family Court, Bhubaneswar shall also make an endeavour for disposal of the criminal proceeding No.214 of 2015 at an early date. Learned counsel for the parties are directed to cooperate the Family Court for early disposal of the criminal proceeding.

Issue urgent certified copy of the order on proper application.



s.s.satapathy