

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 9459 OF 2022

Dasaratha Das

....

Petitioner

Miss A. Pal, Advocate

-versus-

Jyotsnarani Biswal @ Das and another ***Opp. Parties***

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

14.12.2022

Order No.

- 7.
1. This matter is taken up through hybrid mode.
 2. The Petitioner in this writ petition seeks to assail the order dated 11th February, 2022 (Annexure-4) passed by learned Judge, Family Court, Baripada in I.A. No. 24 of 2019 (arising out of C.P. No. 49 of 2019), whereby allowing an application under Section 24 of the Hindu Marriage Act, 1955, the Petitioner has been directed to pay *pendente lite* maintenance @ Rs.5,000/- per month to the minor child from the date of filing of the application.
 3. In the meantime, C.P. No. 49 of 2019 has been disposed of on 5th November, 2022 with the following direction:

“On hearing both the counsels I am of the view that as the respondent is a Govt. service holder and more than 25 years of service are left with her and the petitioner being a defence employee is getting some thousands more from the respondent and a few years of service is left with the petitioner, the nature of the job as well as the amount of salary drawn by both the parties cannot be compared and accordingly no permanent alimony is awarded in

favour of the respondent. So far as maintenance of the child is concerned, interim order has been passed by this court to pay Rs.5000/- per month and hence no further order is required and the petitioner is directed to pay the said amount each month till the majority of the minor daughter. Therefore, the issues No.III & IV are answered accordingly.”

4. In that view of the matter, Miss Pal, learned counsel for the Petitioner had sought for an adjournment to appraise the Court with regard to the impact of the judgment passed in C.P. No.49 of 2019 on the impugned order.

5. Today, Miss Pal, learned counsel for the Petitioner submits that since final order has been passed making arrangement to pay maintenance to the minor child, it should have been challenged in the appeal under Section 19 of the Family Courts Act, 1984. Hence, she prays for withdrawal of the writ petition to avail such remedy.

6. In view of the above, this writ petition is disposed of with an observation that the Petitioner, if so advised, may assail the judgment and order dated 5th November, 2022 passed by learned Judge, Family Court, Baripada in C.P. No. 49 of 2019 in accordance with law.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks