

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 10686 OF 2022

Mahesh Prasad Mallick ***Petitioner***
Mr. Tusar Kumar Mishra, Advocate

-versus-

Dharitree Mallick ***Opp. Party***
None

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
10.05.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 20th September, 2021 (Annexure-10) passed in C.P. No.130 of 2017, whereby learned Judge, Family Court, Jagatsinghpur enhanced the *pendente lite* maintenance under Section 24 of the Hindu Marriage Act, 1955 (for short 'the Act') from Rs.6,000/- per month to Rs.9,000/- per month.
3. Mr. Mishra, learned counsel for the Petitioner submits that the Opposite Party is in habit of filing of the petition for enhancement of the maintenance. C.P. No.130 of 2017 has been filed by the Petitioner for dissolution of marriage by a decree of divorce under Section 13(1) of the Act. On her appearance, the Opposite Party filed an application under Section 24 of the Act. Entertaining such application, learned Civil Judge (Senior Division), Jagatsinghpur directed the Petitioner to pay a sum of Rs.2,000/- per month to the Opposite Party vide order dated 28th February, 2018. Immediately thereafter the Opposite Party filed

another application for enhancement of *pendente lite* maintenance under Section 24 of the Act. Considering such application, learned Judge, Family Court, Jagatsinghpur vide his order dated 26th November, 2018 directed the Petitioner to pay *pendente lite* maintenance of Rs.6,000/- per month to the Opposite Party. Thereafter, the Opposite Party filed another application for enhancement of *pendente lite* maintenance on the ground that their daughter will be admitted to School this year for which *pendente lite* maintenance requires enhancement. Considering such application, learned Judge, Family Court, Jagatsinghpur directed the Petitioner to pay a sum of Rs.9,000/- per month to the Opposite Party as *pendente lite* maintenance till disposal of the civil proceeding.

4. Mr. Mishra, learned counsel for the Petitioner further submits that trial of the civil proceeding has already commenced and evidence from the side of the Petitioner has already been closed on 29th September, 2021. Instead of participating in the hearing of the civil proceeding by leading evidence on her behalf, the Opposite Party has filed a petition under Section 24 of the Act for enhancement of *pendente lite* maintenance, which was entertained and the impugned order has been passed. He submits that objection to the petition for enhancement of *pendente lite* maintenance could not be filed by the present Petitioner. Hence, he prays for setting aside the impugned order and to direct the learned Judge, Family Court, Jagatsinghpur for early disposal of C.P. No. 130 of 2017, which will be in the interest of both the parties.

5. Taking into consideration the submission of learned counsel for the Petitioner and on perusal of the impugned order under Annexure-10, it reveals that the Petitioner was examined as P.W.1

and he has admitted in his evidence that his income is Rs.31,500/- per month. Learned Judge, Family Court, Jagatsinghpur has also taken into consideration that the daughter born out of the wedlock of the Petitioner and Opposite Party will be admitted to school this year.

6. Taking into consideration the facts and circumstances of the case, this Court feels that enhancement of the interim maintenance from Rs.6,000/- per month to Rs.9,000/- per month is just and reasonable. Hence, the impugned order under Annexure-10 warrants no interference.

7. However, taking into consideration the fact that trial of the civil proceeding has already commenced and the evidence from the side of the Petitioner has already been closed, learned Judge, Family Court, Jagatsinghpur is directed to make an endeavour for early disposal of C.P. No. 130 of 2017 without granting unnecessary adjournment. Parties to the civil proceeding are directed to cooperate with the learned Judge, Family Court, Jagatsinghpur for early disposal of C.P. No. 130 of 2017.

8. The writ petition is, accordingly, disposed of.

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

(K.R. Mohapatra)
Judge

bks