

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No. 84 of 2022

Goutambudhha Sitaram

.....

Petitioner

Kedar Kumar Dash, Advocate

-versus-

Bharati Behera

....

Opp. Party

Mr. Gouri Kumar Rath, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

12.05.2022

Order No.

2. 1. This matter is taken up through Hybrid mode.
2. 2. Though the matter was listed for orders, on the consent of learned counsel for the parties, the same is taken for final disposal.
3. 3. Defect regarding conversion of RPFAM to CRLMP is ignored.
4. 4. Petitioner in this RPFAM seeks to assail the order dated 14th March, 2022 (Annexure-7) passed in Criminal Execution Case No.40 of 2016 (arising out of Cr.P. No.130 of 2011).
5. 5. It is submitted by Mr. Das, learned counsel for the Petitioner that assailing the order passed in Cr.P. No.130 of 2011, the Petitioner has preferred RPFAM No.55 of 2013, which is sub judice. This Court, while issuing notice in RPFAM No.55 of 2013 vide order dated 29th March, 2018 in Misc. Case No.342 of 2017, as an interim measure, directed that no coercive action shall be taken against the Petitioner in Criminal

Execution Case No.40 of 2016 pending before learned Judge, Family Court, Bhubaneswar till completion of mediation.

7. In the meantime, mediation has been completed since 17th July, 2018 fixing permanent alimony at Rs.13,25,000/-. Since the Petitioner had already paid Rs.4.05 lakh by then, it was agreed between the parties that the rest amount of 9.20 lakh will be paid within a period of three months from the date as per the direction of this Court.

7.1 It is further submitted that the Petitioner has already paid a sum of Rs.2.00 lakh to the Opposite Party on 13th January, 2022. However, learned Judge, Family Court, Bhubaneswar, without taking into consideration the facts has issued conditional NBW against the Petitioner, which is under challenge in this RPFAM.

8. Mr. Rath, learned counsel for the Opposite Party submits that although the mediation was made on 17th July, 2018 and it was agreed upon between the parties that the Petitioner will pay Rs.9.20 lakhs within three months, the Petitioner has not paid a single pie save and except Rs.2.00 lakh, which has been paid since 13th January, 2020. It is further submitted that vide order dated 14th November, 2019, interim order dated 29th March, 2018 passed in Misc. Case No.342 of 2017 was vacated. Thus, the Petitioner is liable to pay the entire amount as per the mediation. Since the Petitioner did not pay the same, the Opposite Party was constrained to move the executing Court for realization of the same. Thus, there is no illegality in the impugned order.

9. On a query being made by this Court, Mr. Das, learned counsel for the Petitioner could not give satisfactory reply with regard to status of compliance of terms and conditions agreed upon through mediation. He, however, submits that the Petitioner is now jobless. Hence, he could not comply with all the terms and conditions agreed upon during mediation.

10. Mr. Rath, learned counsel for the Opposite Party, however, stoutly denied the same and submits that the Petitioner is in the habit of not complying the orders of this Court, for which the Opposite Party is seriously prejudiced. Hence, he prays for dismissal of the RPFAM.

11. Taking into consideration the rival contentions of learned counsel for the parties as well as facts and circumstances of the case stated above, I am not inclined to interfere with the order impugned herein.

12. Accordingly, the RPFAM stands dismissed.

Issue urgent certified copy of the order on proper application.

s.s.satapathy

(K.R. Mohapatra)
Judge