

IN THE HIGH COURT OF ORISSA AT CUTTACK

MATA No. 68 of 2020

Surendranath Sahoo **Appellant**
Mr. P.K.Mohanty, Advocate
-versus-
Sradhanjali Sahoo **Respondent**
Mr. G.C.Mohapatra, Advocate
AND

MATA No. 67 of 2020

Surendranath Sahoo **Appellant**
Mr. P.K.Mohanty, Advocate
-versus-
Sradhanjali Sahoo and another **Respondents**
Mr. G.C.Mohapatra, Advocate

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

ORDER
22.7.2022

Order No .

- 3**
1. This matter is taken up through hybrid mode.
 2. Both the appeals are combined for disposal by a common judgment inasmuch as by the appeal being MATA No. 68 of 2020 the appellant questions the legality of determination, of permanent alimony, by the judgment dated 05.05.2020 delivered in Civil Proceeding No. 1136 of 2011 by the Judge, Family Court, Cuttack and by the appeal being MATA No. 67 of 2020, the appellant questions the legality of the quantum of maintenance as determined by the Judge, Family Court, Cuttack by the judgment dated 21.03.2020 delivered in Civil Proceeding No. 209 of 2011.
 3. The decree of divorce as passed pursuant to the judgment dated 05.05.2020 delivered in Civil Proceeding No. 1136 of 2020, is not under challenge for obvious reason as after ex

parte decree which was subsequently set aside, the appellant contracted the second marriage.

4. As stated, the judgment dated 21.03.2020 leading to the order of maintenance emerges from the proceeding instituted by the respondent in MATA No. 67 of 2020.

5. The said suit was for enhancement of earlier maintenance. The maintenance granted by the court in Civil Proceeding No. 59 of 2002 that was ordered earlier was Rs.3000/- for the respondent. In the changed circumstances, the said suit was instituted for enhancement of the previous maintenance to Rs.12,000/-. The Judge, Family Court while passing the judgment dated 21.03.2020 has taken note of 7th Pay Commission award by enhancing the pay matrix for the Central Government employees including the employees under the Railways. According to the Judge, Family Court, the appellant was, at the relevant point of time, receiving a sum of Rs.37,000/- per month. Having considered the said pay matrix of the appellant herein and the rising price, the maintenance as awarded earlier by the order dated 18.4.2008 passed in Civil Proceeding No. 59 of 2002 has been enhanced to Rs.4,000/- per month for the petitioner no.1 and Rs.3000/- for the petitioner no.2 (the respondents no.1 & 2 respectively in MATA No. 67 of 2020). The said judgment has been challenged in MATA No. 67 of 2020. But the respondent herein filed another suit seeking dissolution of marriage being Civil Proceeding No. 1136 of 2011. The said suit was allowed after recording evidence and appreciation thereof. It has been observed that the matrimonial misconduct of the appellant herein is as such that the respondent herein was not expected to bear it any more. At the time of passing the said decree of divorce, the Judge, Family Court has directed that a sum of Rs.18,00,000/- towards permanent alimony be paid to the respondent in MATA

No.68 of 2020 with clarification that out of the said amount of Rs.18,00,000/-, a sum of Rs.6,00,000/- will be segregated for costs of study and marriage of the daughter of the parties namely Smruti Rekha Sahoo. It has been directed that the said amount shall be paid within three months from the date of the said judgment. The appellant has urged in this appeal for reduction of the quantum of alimony as well as of the monthly maintenance.

6. We have heard Mr. Mohanty, learned counsel for the appellant. He has strenuously argued before us that the amount as has been determined, is exorbitant and if it is retained the appellant will suffer undue hardship inasmuch as from the second marriage the appellant has children. He has obligation to maintain his new family.

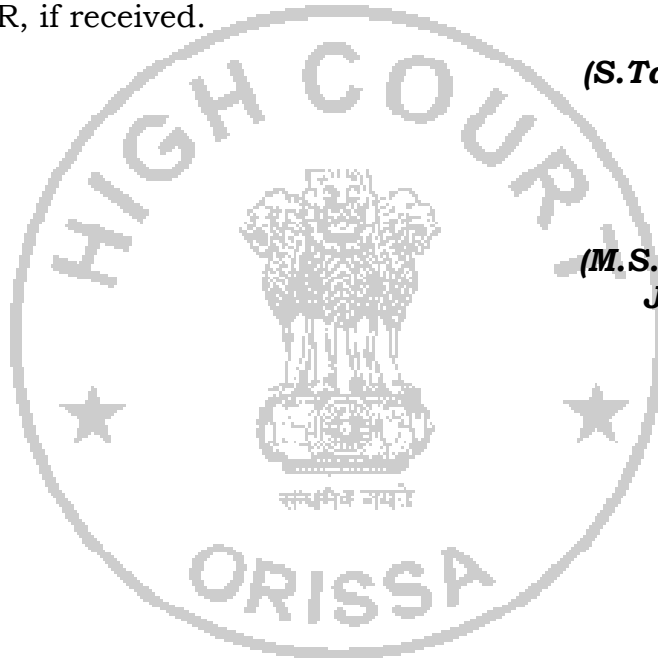
7. From the other side, Mr. G.C.Mohapatra, learned counsel for the respondent has robustly submitted that reason given by the Judge, Family Court for such finding is irreversible. He has pointed out that the price index and the changes in the pay matrix of the appellant have been taken into consideration to determine the changed circumstance and the changes in the pay matrix of the appellant, for altering the maintenance allowance. Mr. Mohapatra, learned counsel has submitted also that the appellant has defied the direction of the Family Court by not paying the alimony within three months from the date of judgment, i.e. 05.05.2020. He has conceded that the payment of maintenance shall have to be continued till the alimony is paid and the amount paid as maintenance cannot be discounted from the lump sum alimony as determined by the Judge, Family Court. We find sufficient force in the contention of Mr. Mohapatra. As such, both the appeals are dismissed with the following direction :

The appellant shall continue to pay the maintenance till the amount of alimony as determined by the judgment dated 05.05.2020 is paid to the respondent. But we cannot leave a loose end. The appellant shall pay the said amount of alimony i.e. Rs.18,00,000/- as determined by the Judge, Family Court within a period of three months from today. Till then the appellant shall have to pay the maintenance in the same rate as has been determined by the judgment dated 21.3.2020.

In result, the impugned judgments are affirmed with direction as made above. Draw the decree accordingly. Send down LCR, if received.

(S.Talapatra)
Judge

(M.S.Sahoo)
Judge



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