

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 15309 of 2022

Sonita Pradhan @ Sonita Palei* *Petitioner

Mr. Amitav Tripathy, Advocate

-versus-

Sunil Kumar Palei* *Opp. Party

Mr. Dillip Kumar Mishra,
Additional Government Advocate

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
11.07.2022**

Order No.

1. This matter is taken up through Hybrid mode.
2. This writ petition has been filed assailing the order dated 18th May, 2022 (Annexure-1) passed in IA No.3 of 2022 (arising out of CP Case No.74 of 2021 of 111 of 2020), whereby learned Judge, Family Court, Nayagarh rejected the application filed under Section 24 of the Hindu Marriage Act, 1955 (for short, 'the Act') filed by the present Petitioner.
3. Mr. Tripathy, learned counsel for the Petitioner submits that the Opposite Party-husband has filed CP No.74 of 2021 under Section 13 (1) of the Act. The Petitioner has also filed CP No.116 of 2020 under Section 9 of the Act, which is pending before the said Court. During pendency of the proceeding, the Petitioner filed an application under Section 124 of the Act in CP No.74 of 2021, which has been rejected by learned Judge, Family Court, Nayagarh holding that the Petitioner is getting a

sum of Rs.15m000/- per month in CMC No.68 of 2020 pending before learned SDJM, Nayagarh.

4. Mr. Tripathy, learned counsel submits that although learned SDJM, Nayagarh has directed the Opposite Party-husband to pay a sum of rs.15,000/- per month in CMC No.68 of 2020 initiated under the provisions of Protection of Women from Domestic Violence Act,2005 (for short, 'DV Act'), but the Petitioner has not yet received a single pie in the said proceeding. He further submits that although CP No.116 of 2020 filed by the Petitioner under Section 9 of the Act and is pending before learned Judge, Family Court, Nayagarh, but no substantial progress is made in the said proceeding. On the other hand, learned Family Court, Nayagarh is proceeding in CP No.74 of 2021. To add to it, he has rejected the application filed by the present Petitioner under Section 24 of the Act. As such, the Petitioner is highly prejudiced. Hence, the impugned order is liable to be set aside.

5. Considering the submission of learned counsel for the Petitioner and on perusal of case record, it appears that the Opposite Party-husband has been directed to pay Rs.15,000/- per month to the Petitioner in a proceeding under the DV Act in CMC No.68 of 2020. Although Mr. Tripathy, learned counsel for the Petitioner submits that the Petitioner is yet to receive a single pie in the said proceeding, but that cannot be a ground to allow the application filed under Section 24 of the Act. The Petitioner has a remedy to execute the said order passed under DV Act in accordance with law.

6. In view of the above, I find no infirmity in the impugned order. It is, however, observed that learned Judge, Family Court, Nayagarh should proceed with CP No.116 of 2020 filed by the Petitioner under Section 9 of the Act in accordance with law, if there is no legal impediment.

7. Accordingly, the writ petition is disposed of without interfering with the impugned order under Annexure-1.

Issue urgent certified copy of the order on proper application.



(K.R. Mohapatra)
Judge