

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 17515 OF 2022

Smarak Kumar Giri

....

Petitioner

Mr. Prashanta Kumar Nayak, Advocate

-versus-

Rashmita Ghadei

....

Opp. Party

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

20.07.2022

Order No.

2. 1. This matter is taken up through Hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 8th December, 2021 (Annexure-5) passed by learned Judge, Family Court, Bhadrak in I.A. No.03 of 2020 (arising out of C.P. No. 321 of 2018), whereby an application under Section 24 of the Hindu Marriage Act, 1955 filed by Opposite Party was allowed directing the present Petitioner to pay a sum of Rs.3,500/- per month to the Opposite Party.
3. Mr. Nayak, learned counsel for the Petitioner submits that the Opposite Party is the legally married wife of the Petitioner. The Petitioner has filed C.P. No. 321 of 2018 for dissolution of marriage by a decree of divorce. The Opposite Party on her appearance filed an application under Section 24 of the Act in I.A. No.03 of 2020. Learned Judge, Family Court, Bhadrak without considering the fact that the Petitioner is an unemployed person and has no independent source of income directed him to pay *pendete lite* maintenance at the rate of Rs.3,500/- per month. It is

his submission that since the Petitioner is jobless, it will be impossible on his part to pay an amount of Rs.3,500/- to the Opposite Party. Hence, he prays for reconsideration of the quantum of maintenance.

4. Taking into consideration the submission of leaned counsel for the Petitioner and on perusal of the record, it appears that none of the parties had led any evidence with regard to the income of the Petitioner. In absence of any material with regard to the income of the Petitioner and finding that the Opposite Party has no independent source of income, learned Judge, Family Court, Bhadrak directed the Petitioner to pay a sum of Rs.3,500/- per month as *pendente lite* maintenance. In absence of any material with regard to the income of the Petitioner, the Court has to make a guess work by taking into consideration the notional income of the Petitioner to grant maintenance. Thus, this Court finds that direction to pay a sum of Rs.3,500/- per month to the Opposite Party as maintenance is neither unreasonable nor excessive. Hence, I find no infirmity in the impugned order.

5. Accordingly, this writ petition is dismissed.

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

(K.R. Mohapatra)
Judge

bks