

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 22147 OF 2022

Sanjana Mohanty

....

Petitioner

Mr. Debaraj Mohanty, Advocate

-versus-

Sarthak Swayanjit Mohanty

....

Opp. Party

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

14.09.2022

Order No.

1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition prays for a direction to set aside the order dated 15th July, 2022 (Annexure-4) passed by learned Judge, Family Court, Balasore in I.A. No. 61 of 2022 (arising out of C.P. No. 506 of 2021), whereby he allowed an application under Section 24 of the Hindu Marriage Act, 1955 (for short 'the Act') and directed the Opposite Part to pay a sum of Rs.10,000/- per month as *pendente lite* maintenance.
3. Mr. Mohanty, learned counsel submits that the Petitioner is the legally married wife of Opposite Party. As there is some marital discord between the parties, the Opposite Party filed C.P. No. 506 of 2021 for dissolution of marriage under Section 13(1) of the Act. On appearance, the present Petitioner filed an application under Section 24 of the Act, which was registered as I.A. No. 1 of 2021. Although the Opposite Party is earning a sum of Rs.1.00 lakh per month, learned Judge, Family Court, Balasore without considering the same has directed the Opposite Party to pay a meager amount of Rs.10,000/- per month to the present Petitioner. It is his submission that the income of Opposite Party

is not within her knowledge and he should come up with documents to show his exact income. The Petitioner although stated that the Opposite Party is earning a sum of Rs.1.00 lakh per month, but she could not produce any document to that effect. Thus, learned Judge, Family Court, Balasore passed an order directing the Opposite party to pay a meager amount of Rs.10,000/-. Referring to Annexure-5 annexed to the writ petition, he submits that the Opposite Party is earning a sum of Rs.11,69,000/- per annum being an I.T. Engineer. Hence, the amount of *pendente lite* maintenance requires reconsideration.

4. Considering the submission made by learned counsel for the Petitioner and the observation made in the impugned order, this Court finds that none of the parties to the civil proceeding has filed any document with regard to the income of Opposite Party. Further, the Petitioner has stated in her petition that the Opposite Party is earning a sum of Rs.1.00 lakh per month. On the other hand, the Opposite Party in his petition has stated that his income is not sufficient to maintain himself and his dependant mother. On the basis of the materials on record, learned Judge, Family Court, Balasore has passed the impugned order directing the Opposite Party to pay a sum of Rs.10,000/- per month. Learned counsel for the Petitioner by filing a letter of the employer under Annexure-5 submits that the salary of Opposite Party at the relevant time was Rs.11,69,000/- per annum. There is nothing on record to show as to why said document could not be produced before learned Judge, Family Court, Balasore, when it was issued on 9th July, 2018, i.e. much before the interim application in I.A.

No. 1 of 2021 was filed. The Petitioner has also not come up with a specific plea with regard to the current salary of Opposite Party.

5. In view of the above, since no document with regard to the income of Opposite Party was filed before learned Judge, Family Court, Balasore, it had to make a guess work to determine the quantum of *pendente lite* maintenance.

6. In view of the discussions made above, I am not inclined to entertain the writ petition. Accordingly, the writ petition being devoid of any merit stands dismissed.

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

(K.R. Mohapatra)
Judge

bks

