

IN THE HIGH COURT OF ORISSA AT CUTTACK

MATA No. 138 of 2019

Manas Ranjan Swain ***Appellant***

Mr. Yeeshan Mohanty, Sr. Advocate along with Mr.
Ramakrishna Naik, Advocate

-versus-

Babita Jena ***Respondent***

Mr. S. Das, Advocate of behalf of Mr. H.N. Tripathy,
Advocate

MATA NO.134 OF 2019

Babita Jena ***Appellant***

Mr. S.Das, Advocate of behalf of
Mr. H.N. Tripathy, Advocate

-versus-

Manas Ranjan Swain ... ***Respondent***

Mr. Yeeshan Mohanty, Sr. Advocate along
with Mr. Ramakrishna Naik, Advocate

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

ORDER

02.08.2022

Order No.

- 13.** **1.** This matter is taken up through hybrid mode.
- 2.** The appeals being MATA No.138 of 2019 titled as *Manas Ranjan Swain vrs. Babita Jena* and MATA No.134 of 2019 titled as *Babita Jena vrs. Manas Ranjan Swain*, are combined for disposal by a common judgment in view of the subsequent events and the consensus reached by the parties.

3. We have heard Mr. Yeeshan Mohanty, learned Sr. Counsel along with Mr. Ramakrishna Naik, learned counsel appearing for the appellant in MATA No.138 of 2019 and the respondent in MATA No.134 of 2019 and Mr. S. Das, learned counsel appearing on instruction of Mr. H.N. Tripathy, learned counsel for the respondent in MATA No.138 of 2019 and the appellant in MATA No.134 of 2019.

4. In both the appeals, the judgment dated 08.08.2019 has been challenged. In MATA No.138 of 2019, the appellant has challenged the quantum of alimony for being exorbitant. In MATA No.134 of 2019, the appellant has also challenged the quantum of alimony as according to her the alimony is inadequate.

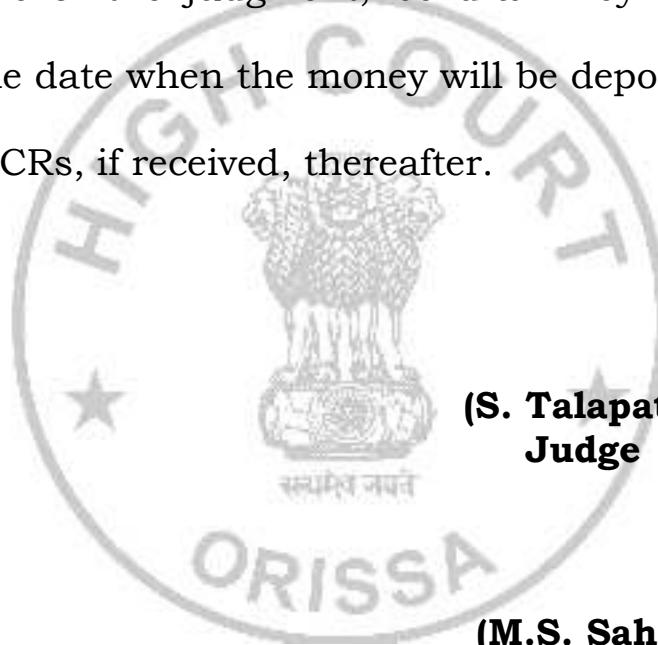
5. Learned counsel for the appellant in both the appeals have stated that the appellant in MATA No.134 of 2019, Smt. Babita Jena has contracted remarriage and out of the said wedlock a child has been born. Mr. Y. Mohanty, learned Sr. Counsel has acceded by stating that the fact of remarriage are admitted by the parties. This admission strikes serious consequence on

the principal issue i.e. appropriate alimony. The remarriage, during the continuation of the proceeding, weakens the claim for alimony from her husband.

6. Mr. Das, learned counsel for the respondent-wife has contended that the alimony that has been granted is supposed to get effect from 08.08.2019 i.e. the date of the judgment. Moreover, the appellant in MATA No.134 of 2019 being unemployed has to spend a huge amount as legal expenses. After a brief interaction, a consensus has been reached that both the appeals may be disposed of, on direction on the appellant of MATA No.138 of 2019 to pay a lump sum of Rs.10,00,000/- (Rupees Ten Lakhs) in favour of the appellant in MATA No.134 of 2019 along with another sum of Rs. 1,00,000/- (Rupees One Lakh) as expenses of litigation.

7. On the basis of the said agreement, we would dismiss the appeal being MATA No.134 of 2019 and we would allow MATA No.138 of 2019 partly in terms of the conditions as stated above.

8. It is made further clear that the said sum of Rs.11,00,000/- (Rupees Eleven Lakh) altogether, be paid by the appellant-husband in the form of Bank Draft or the Banker's Cheque in favour of the appellant of MATA No.134 of 2019 within a period of two months. Only after the said Bank Draft or the Banker's Cheque is submitted before the Registrar (Judicial), the decree, in terms of the judgment, be drawn by the Registry from the date when the money will be deposited. Send down LCRs, if received, thereafter.



(S. Talapatra)
Judge

(M.S. Sahoo)
Judge