

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 22509 OF 2022

Pranaya Kishor Pradhan ***Petitioner***
Mr. Byomokesh Sahoo, Advocate
-versus-

Bharati Karna @ Pradhan ***Opp. Party***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
20.09.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 22nd March, 2022 (Annexure-5) passed in I.A. No.05 of 2019 (arising out of C.P. Case No.51 of 2019), whereby learned Judge, Family Court, Sambalpur entertaining an application filed by the Opposite Party directed the Petitioner to pay *pendente lite* maintenance @ Rs.9,000/- per month to the Opposite Party along with litigation expenses of Rs.20,000/-.
3. Mr. Sahoo, learned counsel for the Petitioner submits that the Opposite Party has voluntarily left the matrimonial home, merely on a suspicion of illicit relationship of the Petitioner with another lady. But, without impleading her as a party, the Opposite Party filed C.P. Case No.51 of 2019 under Section 9 of the Hindu Marriage Act, 1955 (for short 'the Act'). During pendency of the proceeding, she filed an application under Section 24 of the Act for *pendente lite* maintenance. Learned Judge, Family Court taking into consideration that the gross salary of the Petitioner is Rs.46,645/-, directed him to pay

pendente lite maintenance of Rs.9,000/- per month to the Opposite Party.

4. It is further submitted by learned counsel for the Petitioner that when the Opposite Party left the matrimonial home voluntarily and did not adhere to the request of the Petitioner-husband to join him, it clearly establishes that she has not come to the Court with clean hand. In order to harass the Petitioner by suppressing the materials fact, the Opposite Party has filed an application under Section 9 of the Act and is claiming *pendente lite* maintenance under Section 24 of the Act. While considering the application for *pendente lite* maintenance, learned Judge, Family Court ought to have taken into consideration the conduct of the Opposite Party in joining the matrimonial home with the present Petitioner. He further submits that learned Judge, Family Court has not taken into consideration the Xerox copy of writings of the Petitioner addressing to the President, Odisha, Duma Parishad, District Branch, Bargarh dated 25th Marc, 2021, which is marked as Ext. B. In that view of the matter, he submits that the impugned order under Annexure-5 is not sustainable and is liable to be set aside.

5. Upon hearing learned counsel for the Petitioner and on reading of the provision under Section 24 of the Act, it is clear that the Opposite Party-Wife having no independent income sufficient for her sustenance is entitled to get the *pendente lite* maintenance during pendency of the proceeding under the Act. In the instant case, the Opposite Party has filed an application

under Section 9 of the Act for restitution of conjugal rights. The Petitioner has already entered appearance and filed his counter claim claiming dissolution of marriage. It is also not disputed that the Opposite Party does not have any independent source of income sufficient for her sustenance. The gross income of the Petitioner is Rs.46,645/- as revealed from Ext.A filed by the present Petitioner. In that view of the matter, this Court feels that learned Judge, Family Court, Sambalpur has committed no error in directing the Petitioner to pay *pendente lite* maintenance of Rs.9,000/- per month to the Opposite Party.

6. 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