

IN THE HIGH COURT OF ORISSA AT CUTTACK

CMP NO. 918 OF 2022

Debajani Nayak

....

Petitioner

Mr. Biswa Prakash Dhal, Advocate

-versus-

Nabakishor Khuntia

....

Opp. Party

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

22.09.2022

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. The Petitioner in this CMP seeks to assail the order dated 7th September, 2022 (Annexure-6) passed in I.A. No. 11 of 2021 (arising out of Mat No. 19 of 2020), whereby learned Civil Judge (Senior Division), Kamakhyanagar directed the Opposite Party to pay a sum of Rs.15,000/- per month to the Petitioner towards *pendente lite* maintenance from the date of the said order.
 3. Mr. Dhal, learned counsel for the Petitioner submits that ordinarily the order of *pendente lite* maintenance should relate back to the date of application. Otherwise it has to assign reason for not granting maintenance from the date of application. But without assigning any reason thereto, learned trial Court has directed to pay *pendente lite* maintenance from the date of the order. It has already been clarified in the case of ***Rajnesh –v- Neha***, reported in (2021) 2 SCC 324, that *pendente lite* maintenance should ordinarily relate back to the date of the application. He further submits that litigation expenses ought to have been granted as provided under Section 24 of the Hindu

Marriage Act, 1955. In that view of the matter, the impugned order is not sustainable and is liable to be set aside.

4. Taking into consideration the submission made by learned counsel for the Petitioner, this Court finds that learned trial Court directed the Opposite Party to pay *pendente lite* maintenance to the Petitioner from the date of the order. However, no reason has been assigned to that effect.

5. Hence, the CMP is disposed of with a direction that in the event the Petitioner files an application for payment of maintenance from the date of application as well as for litigation expenses, the same shall be considered in accordance with law giving opportunity of hearing to the parties concerned.

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

(K.R. Mohapatra)
Judge

bks