

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29882 OF 2021

Soumen Behera

Petitioner

Mr. Bijaya Kumar Parida, Advocate
-versus-

Susmita Pradhan

.... ***Opp. Party***

Mr. Bibhu Prasad Tripathy, Advocate

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
21.07.2022**

Order No.

- 4.
1. This matter is taken up through hybrid mode.
 2. The Petitioner in this writ petition seeks to assail the order dated 20th January, 2021 (Annexure-4) passed by learned Judge, Family Court, Angul in I.A. No.19 of 2019 (arising out of C.P. Case No.87 of 2019), allowing an application under Section 24 of the Hindu Marriage Act, 1955 (for short 'the Act') and directing the Petitioner to pay a *pendente lite* maintenance of Rs.10,000/-per month to the Opposite Party-Wife from the date of filing of petition, i.e. on 24th July, 2017 along with litigation expenses of Rs.50,000/-.
 3. Mr. Parida, 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.87 of 2019 for dissolution of marriage by a decree of divorce. During pendency of the proceeding, the Opposite Party-Wife filed an application under Section 24 the Act, claiming *pendente lite* maintenance. Learned Judge, Family Court, Angul without considering the fact that the Opposite Party is in service and is getting a handsome salary has passed the impugned order, which requires re-consideration.

4. However, Mr. Tripathy, learned counsel for the Opposite Party-Wife submits that there is no document available on record to show that the Opposite Party was in service at the relevant time. On the other hand, there is ample evidence on record to show that the Petitioner is earning more than Rs.65,000/- per month, which is apparent from Ext.1 itself. Thus, a maintenance of Rs.10,000/- per month cannot be said to be unreasonable. It is his submission that in spite of the direction of learned Court, the Petitioner has not paid the arrear maintenance which becomes more than Rs.5,00,000/-. Hence, this writ petition should not be entertained.

5. Taking into consideration the submissions made by learned counsel for the parties and on perusal of the record, it is apparent that Ext. 1 is the Income Tax Return of the Petitioner. Learned Judge, Family Court, Angul relying upon the same along with testimony of the parties has come to a categorical finding that the Petitioner is earning more than Rs.65,000/- per month. On the other hand, there is no material on record to show that the Opposite Party was in service and has sufficient means for her sustenance.

6. In that view of the matter, this Court is of the considered opinion that direction to pay a sum of Rs.10,000/- (Rupees ten thousand only) per month to the Opposite Party-Wife is neither unreasonable nor excessive.

7. Accordingly, I do not find any infirmity in the impugned order.

8. This writ petition being devoid of any merit stands dismissed.

(K.R. Mohapatra)
Judge