

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No. 262 OF 2022

Balia @ Balaram Panda ***Petitioner***

Mr. Rajib Lochan Pattnaik, Advocate

-versus-

Sweety @ Rashmita Padhee @ Panda ***Opp. Parties***
and another

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

14.11.2022

Order No.

01. 1. This matter is taken up through hybrid mode.
2. Order dated 27th August, 2022 (Annexure-1) passed in Criminal Misc. Case No.16 of 2021 is under challenge in this RPFAM, whereby learned Judge, Family Court, Sambalpur directed the Petitioner to pay maintenance of Rs.5,000/- per month to Opposite Party No.1 (Wife) and Rs.3,000/- per month to Opposite Party No.2 (Minor Son) with effect from the date of filing of such petition i.e. from 18th March, 2021.
3. Mr. Pattnaik, learned counsel submits that the take home salary of the Petitioner is only Rs.26,610/- per month and he is taking care of his mother and he has his own expenses. Hence, it is very difficult on his part to pay maintenance, as directed by learned Judge, Family Court. He further submits that in spite of his best efforts, Opposite Party No.1 is not joining him at the matrimonial home because of his obesity. The same cannot be a ground to refuse a matrimonial life. In that view of the matter, he prays for setting aside the impugned order under Annexure-1 and remits the matter back to learned Judge, Family Court, Sambalpur for fresh consideration.

4. Upon hearing learned counsel for the Petitioner and on perusal of the record, it appears that learned Judge, Family Court on assessment of materials on record, came to a conclusion that the net salary of the Petitioner is Rs.26,610/- per month. The mother of the Petitioner is not depending on him, as she is getting the family pension of her husband. Although it is submitted by learned counsel for the Petitioner that she is getting a sum of Rs.7,000/- per month towards family pension of her husband, which is not sufficient to maintain herself, but, there is no material on record to appreciate such submission. So far as refusal of Opposite Party No.1 to join with the Petitioner to matrimonial home is concerned, learned Judge, Family Court appears to have taken into consideration the materials on record and disbelieved the plea raised by the Petitioner to the effect that due to his obesity, Opposite Party No.1 is not joining him at the matrimonial home. There is no material on record to take a different view than that of learned Judge, Family Court, Sambalpur.

5. Considering the materials on record and the cost of living in present days, this Court finds that the maintenance granted in favour of the Opposite Parties is not unreasonable.

6. Accordingly, this RPFAM being devoid of any merit stands dismissed.

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

(K.R. Mohapatra)
Judge