

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 28260 OF 2019

Sanjeeb Kumar Mallick ***Petitioner***

Mr. Arijeet Mishra, Advocate

-versus-

Adyashree Das @ Mallick ***Opp. Party***

Mr. Prasanta Kumar Satapathy, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

14.11.2022

Order No.

10. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this writ petition seeks to assail the order dated 18th May, 2019 passed by learned Civil Judge (Senior Division), Athagarh in Misc. Case No. 13 of 2018 (arising out of Mat. Suit No.287 of 2017), whereby allowing an application under Section 24 of the Hindu Marriage Act, 1955, the Petitioner has been directed to pay Rs.10,000/- per month to the Opposite Party-Wife as *pendente lite* maintenance.
3. In course of hearing, learned counsel for the parties fairly concede that assailing the self-same order, the Petitioner had earlier approached this Court in RPFAM No. 181 of 2019, which was disposed of vide order dated 29th October, 2019 with the following direction:

“.....Keeping in view the above submission when this Court has not passed any order staying the operation of the order in question or further proceeding of any execution case if has been so levied for carrying out said order; it is observed that it is open for the opposite party to proceed for realization of the interim maintenance dues in terms of the order impugned in

this revision, in accordance with law. In that event, the court is seisin of the proceeding shall do well to proceed in the matter in accordance with law with expediency keeping in view the objectives sought to be achieved through the provision of law enacted in that regard.

The RPFAM stands disposed of.”

4. Mr. Mishra, learned counsel for the Petitioner submits that since the impugned order has been passed in a petition under Section 24 of the Hindu Marriage Act, 1955, a revision under Section 19(4) of the Family Court's Act, 1984 was not maintainable. Hence, this writ petition has been filed.

5. Mr. Satapathy, learned counsel for the Opposite Party objecting to the same contends that since RPFAM was disposed of on merit and not on the ground of maintainability, the subsequent writ petition is not maintainable.

6. Considering the rival contentions of the parties, this Court finds that RPFAM No.181 of 2019 was disposed of on merit. Hence, the subsequent writ petition assailing the said order is not maintainable.

7. Accordingly, this writ petition is disposed of with a direction that learned Civil Judge (Senior Division), Athagarh should make an endeavour for early disposal of Mat. Suit No.187 of 2017 in terms of the order passed in TRPC No. 146 of 2018, giving opportunity of hearing to the parties concerned.

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

(K.R. Mohapatra)
Judge

bks