

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. No.31315 of 2022

Satyabrata Pati

.....

Petitioner

Mr. Gokulananda Padhi, Advocate

-versus-

Ipsita Nanda

....

Opp. Party

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

25.11.2022

Order No.

2.
 1. This matter is taken up through Hybrid mode.
 2. Petitioner in this writ petition seeks to assail the order dated 18th October, 2022 (Annexure-1) passed by learned Judge, Family Court, Jagatsinghpur in CP No.647 of 2019, whereby an application filed under Section 24 of the Hindu Marriage Act, 1955 has been allowed directing the Petitioner to pay *pendente lite* maintenance of Rs.5,000/- per month to the Opposite Party-wife with effect from the date of application, i.e., 20th February, 2020 along with litigation expenses of Rs.10,000/-.
 3. Mr. Padhi, learned counsel for the Petitioner submits that although documents were produced before learned Judge, Family Court to the effect that the Petitioner has no income and has no landed property, but the Family Court did not at all consider the same. He further submits that the quantum of maintenance is excessive and requires reconsideration.
 4. On being asked, learned counsel for the Petitioner could produce any material to show that any document with regard to his income and landed property was ever filed before the learned Judge, Family Court, Jagatsinghpur. On the other hand, learned Judge at para-5 of the impugned order has categorically observed

that when the Petitioner disputed his income as alleged by the Opposite Party-wife, burden is on him to prove the same. It is also observed by the learned Judge, Family Court that despite the fact that there is no evidence on record to show the income the Petitioner is earning from agriculture as well as from business, but fact remains that the Petitioner is an able-bodied man and has the obligation to maintain his wife. From the aforesaid observation of learned Family Court, it is evident that neither the Petitioner nor the Opposite Party had produced any document with regard to the income of the Petitioner.

4. In view of such observation, this Court is of the considered opinion that the submission of Mr. Padhi, learned counsel for the Petitioner to the effect that documents were submitted with regard to his income before learned Judge, Family Court, is not correct. Income of the Petitioner is in his special knowledge. Since no document was filed before the learned Judge, Family Court with regard to income of the Petitioner, it had to make a guess work to determine the quantum of maintenance. In this case, relationship between the parties is not disputed. Thus, learned Judge making a guess work and requirement of Opposite Party has directed the Petitioner to pay the aforesaid *pendente lite* maintenance.

5. Taking into consideration the cost of living of present days, this Court feels that the quantum of *pendente lite* maintenance is just and reasonable. Hence, this Court finds no infirmity in the impugned order. Accordingly, the writ petition merits no consideration and stands dismissed.

