

IN THE HIGH COURT OF ORISSA AT CUTTACK

R.S.A. No.140 of 2021

Abinash Pradhan

....

Appellant

Mr.S.K. Dwibedi
Advocate

-versus-

Sujata Pradhan

....

Respondent

Mr.P.S. Das, Advocate.

**CORAM:
JUSTICE D.DASH**

ORDER

23.12.2022

Order No.

- 07.
1. This matter is taken up by hybrid arrangement (virtual/physical mode).
 2. The Appellant, by filing this Appeal under Section 100 of the Code of Civil Procedure (in short, 'the Code'), has assailed the judgment dated 07.12.2020 passed by the learned Additional District Judge, Champua in Mat. Appeal No.1 of 2019.

The Respondent (Wife) as Petitioner, had filed an application under section 13 read with section 25/27 of the Hindu Marriage Act, 1955 praying for dissolution of her marriage with the Appellant (Husband) arraigned therein as the Opposite Party with further prayer for a direction of return of the articles as shown in the list and payment of permanent alimony of Rs.30,00,000/- (rupees thirty lakhs) to be paid by the Appellant (husband).

The Trial Court has passed the following order:-

“The matrimonial proceeding under section 13 of the Hindu Marriage Act, filed by the

petitioner-wife against the O.P. her husband be and the same is decreed on contest but under peculiar circumstances without costs. The marriage between the petitioner and the O.P. stands dissolved by a decree of divorce. The petitioner is entitled to get back the articles as per the list mentioned in the show cause filed by the O.P. to her petition under section 27 of the Hindu Marriage Act and the petitioner is to grant proper receipt of these articles to the O.P. in writing. The petitioner is not entitled to permanent alimony from the O.P.”

3. The Respondent (petitioner-wife), being aggrieved by the above order, having preferred the Appeal under Section 28(1) of the Hindu Marriage Act before the learned Additional District Judge, Champua, the Appellate Court has passed the order as under:-

“The Mat. Appeal be and the same is allowed on contest against the respondent, however in the circumstance without cost. While setting aside the order of refusal to grant permanent alimony, it is hereby directed the respondent to pay Rs.2,50,000/- (Rupees two lakhs fifty thousand) only as permanent alimony to the appellant and the order in other respects, the same is confirmed. The respondent/O.P. is to pay the permanent alimony within two months hence failing which the appellant/petitioner is to realize the same in due course of law.”

In view of the above, the present Second Appeal is at the instance of the Appellant (opposite party-husband). The limited question on which the Appeal has been admitted is concerns with the grant of permanent alimony to the Respondent (petitioner-wife) to the tune of Rs.2,50,000/- passed by the First Appellate Court.

4. It is pertinent to state here that the Appellant (opposite party-husband) had not challenged the decree of divorce and the

direction for return of the articles and the Respondent (petitioner-wife) had carried the Appeal as against the Trial Court's refusal to grant permanent alimony.

5. Heard learned counsel for the parties. The judgments passed by the Courts below have been perused.

6. It appears from the Trial Court's judgment that the prayer for grant of permanent alimony, as had been advanced by the Respondent (petitioner-husband) had been denied as she had not produced a scrap of paper to show that the Appellant (opposite party-husband) has any source of income as claimed by her and about his income thereof. The Respondent (petitioner-wife) has claimed that the Appellant (opposite party-husband) was getting Rs.50,00,000/- per month as salary by working as a supervisor in Rungta Mines and he has landed properties of 15 acres giving rise to an income of Rs.50,000/-. It is also stated that he was having video shooting business and getting a sum of Rs.4,000/- per month and having rented out his house for commercial purpose, was having an earning of Rs.20,000/- per month and from milk business, a sum of Rs.18,000/- per month was coming to his hands. The Appellant (opposite party-husband) has denied all those facts in further stating that he has no earning source. But he has not adduced any evidence regarding non-existence of any source of income and he has not substantiated his plea that he has no income.

In such state of affairs in the evidence, when the Respondent (petitioner-wife) had been granted with interim maintenance at the rate of Rs.800/- per month from the date of filing of the application during pendency of the original

proceeding; the First Appellate Court is found to have rightly awarded the permanent alimony, which had been unreasonably denied by the Trial Court. The quantum of the permanent alimony, as awarded by the First Appellate Court, being found to be wholly reasonable, this Court answers the substantial question of law against the Appellant (opposite party-husband).

7. In the result, the Appeal stands dismissed.

(D. Dash)
Judge

Basu

