

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) NO. 31883 OF 2022

Sukanta Kumar Parida* *Petitioner

Mr. Akshaya Kumar Sahoo, Advocate

-versus-

Ashalata Palai* *Opp. Party

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

30.11.2022

Order No.

1. This matter is taken up through hybrid mode.
2. Order dated 29th April, 2021 (Annexure-3) passed by learned Judge, Family Court, Bhadrak in I.A. No.25 of 2019 (arising out C.P. No. 224 of 2019) is under challenge in this writ petition, whereby allowing an application filed by Opposite Party under Section 24 of the Hindu Marriage Act, 1955 (for short 'the Act'), the Petitioner has been directed to pay *pendente lite* maintenance of Rs.4,000/- per month to the Opposite party from the date of application, i.e. 31st October, 2019 along with litigation expenses of Rs.1,000/-.
3. Mr. Sahoo, learned counsel for the Petitioner submits that by playing fraud with the Petitioner, the Opposite Party got married with him. Before the marriage with the Petitioner, the Opposite Party had already got married and was pregnant by the time the marriage with the Petitioner was solemnized. The Petitioner has no independent source of income. Thus, it is very difficult on the part of the Petitioner to pay a sum of Rs.4,000/- per month to the Opposite Party as *pendente lite* maintenance.

4. Upon hearing learned counsel for the Petitioner and on perusal of the impugned order, it appears that the Opposite Party had alleged that the Petitioner is earning a sum of Rs.20,000/- per month from his Fast Food Shop at Charampa and he is receiving a sum of Rs.15,000/- per month as rent from the building at Kantapal, Charampa. It is also alleged that the annual income of the Petitioner from landed property is Rs.2,00,000/-. Although no documentary evidence to that effect was submitted by Opposite Party, but the Petitioner also did not submit any document or material in support of his income. As such, learned Judge, Family Court, Bhadrak by making a guess work has directed the Petitioner to pay the aforesaid amount as *pendente lite* maintenance. The income of the Petitioner is in his special knowledge and burden lies on him to prove the same. In absence of any proof, more particularly when the allegation made by the Opposite Party with regard to the income of the Petitioner is not disputed, this Court feels that learned Judge, Family Court, Bhadrak has committed no error in passing the impugned order. As such, I find no infirmity in the impugned order.

5. Accordingly, this writ petition being devoid of any merit stands dismissed.

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

(K.R. Mohapatra)
Judge

bks