

22.09.2023.
Item No. 1.
Court No. 13
ap

F.A. No. 154 of 2002
With
I.A. No. CAN 3 of 2014 (Old CAN 6611 of 2014)
And
I.A. No. CAN 4 of 2022

Rina Jaiswal
Versus
Dilip Kumar Jaiswal

Mr. Golam Karim Chowdhury,
Mr. Kaustava Ratan Chatterjee.

...For the appellant.

Mr. Shubham Gupta,
Mr. Basab Shaw.

....For the respondent.

1. The instant appeal has been preferred by the appellant/wife against the judgment and order dated 29th June, 2001 passed in M.A.T. Suit No. 248 of 1998.
2. By the impugned judgment and decree divorce was granted by the learned Family Court at Calcutta in M.A.T. Suit No. 248 of 1998 permanent alimony of Rs.50,000/- (Rupees fifty thousand only) to the appellant was also granted.
3. The appellant/wife has filed an appeal against the said judgment and decree in the year 2001. The appeal was admitted by a Co-ordinate Bench of this Court by an order dated 2nd July, 2002 and the husband was specifically restrained from remarrying until further orders of this Court.

4. Counsel for the respondent/husband and the respondent himself, who is personally present in Court, has submitted that not only did the respondent get married again but he also has children from the second wife.

5. This is a clear and blatant violation of the order dated 2nd July, 2002. There is a clear contempt on the face of this Court.

6. With the passage of time, the appellant/wife has filed an application being CAN 4 of 2022. She has claimed a permanent alimony of Rs.10,00,000/- (Rupees ten lakhs only) as a pre-condition for agreeing to divorce and withdrawing the instant appeal.

7. This Court finds that the application filed by the appellant/wife is reasonable. There is a permanent and irretrievable break down of marital relation with the passage of time.

8. In the above circumstances, this Court is of the view that the appellant must receive permanent alimony for a sum of Rs.7,00,000/- (Rupees seven lakhs only) in full and final settlement of her claims against the respondent/husband. The said sum of Rs.7,00,000/- shall be paid in seven equal monthly instalments, the first of which shall be paid by 27th September, 2023. The rest of the instalments shall be payable by the eighth of each English calendar month. Upon payment of the sum of alimony as above decree

of divorce passed by the Court below shall stand affirmed.

9. As already indicated hereinabove, the respondent/husband has committed contempt of this Court's order dated 2nd July, 2002 restraining him from remarrying, as admitted by him in open Court.

10. Having regard to the fact and circumstances of the case, this Court is inclined to impose a fine of a sum of Rs.1,50,000/- (Rupees one lakh fifty thousand only) payable by the respondent/husband to the appellant/wife. The amount of fine shall be paid independent of monthly instalments directed hereinabove by 2nd October, 2023. The alimony and fine amount shall be payable into the Bank Account of the appellant directly within the time indicated hereinabove.

11. It is made absolutely clear that in default of payment of any of the instalments towards permanent alimony as directed hereinabove or the amount of fine as directed hereinabove by the date and time mentioned, the entire decree of divorce shall stand automatically set aside. The respondent shall be liable for being taken into custody for suffering three months of civil imprisonment and shall be liable to maintain the appellant at a sum to be decided by this Court.

12. With the aforesaid directions, F.A. No. 154 of 2002 shall stand disposed of. All pending applications shall consequently disposed of.

13. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)

(*Supratim Bhattacharya, J.*)