

IN THE HIGH COURT AT CALCUTTA  
CIVIL REVISIONAL JURISDICTION  
APPELLATE SIDE

**CO 402 of 2023**

Indu Sekhar Das  
Vs.  
Chhabi Sharma @ Das

Mr. Kumarjyoti Tewari  
Mr. Amrit Sinha  
... For the petitioner/husband

Mr. Asit Kumar Biswas  
Mr. Amit Singh  
Ms. Jyoti Agarwal  
... For the opposite party/wife

Affidavit of service filed in Court today is taken on record.

In this application under Article 227 of the Constitution of India the order no.26 dated 5<sup>th</sup> November, 2022 passed by the learned Additional District Judge, 2<sup>nd</sup> Court, Nadia, Krishnagar, in connection with Miscellaneous Case No.16 of 202, has been challenged.

Both the learned advocates appearing on behalf of the parties to this revisional application are present.

Mr. Kumarjyoti Tewari, learned advocate, appearing on behalf of the petitioner assailed the order impugned submitting, inter alia, that the learned Judge considered the income of the petitioner but ignored the affidavit of assets filed by the opposite party/wife after the filing of the petition praying for alimony *pendente lite*.

It has further been submitted that the petitioner/ husband has already retired from his service having no provision for pension.

Mr. Asit Kumar Biswas, learned advocate, appearing on behalf of the opposite party/wife has submitted that claim of Rs.20,000/- made in the affidavit of assets on behalf of the opposite party/wife does not include expenditure on other heads and thereby it is submitted that *pendente lite* assessed by the learned Additional District Judge was correct.

On careful perusal of the entire order impugned, I find that the learned Judge considered the claim of the opposite party/wife in her affidavit of assets but in spite of that the learned Judge recorded as follows:-

“Considering the need of the petitioner and income of the opposite party, if this court fix Rs.15,000/- as alimony pendente-lite in favour of the present petitioner, the purpose of justice will suffice. ...”

There is no specific reason for granting alimony of Rs.15,000/- per month while according to the claim of the petitioner's, alimony cannot be allowed to be imposed beyond Rs.10,000/- while, admittedly, the opposite party/wife is drawing maintenance under Section 125(3) of the Code of Criminal Procedure at the rate of Rs.10,000/- per month.

Considering all facts and circumstances as well as argument advanced on behalf of the parties to this

revisional application, I am unable to agree with the learned Judge on the amount of Rs.15,000/- per month whereby the amount exceeds the claim of the opposite party/wife.

Considering the aforesaid facts and circumstances, the petitioner/husband is directed to pay Rs.10,000/- per month in the manner and direction of the learned Additional District Judge, 2<sup>nd</sup> Court, Nadia, Krishnagar.

In view of the above, the order no.26 dated 5<sup>th</sup> November, 2022 is being modified in respect of the quantum of alimony.

With the aforesaid observations, the revisional application, being CO 402 of 2023, stands disposed of.

Learned advocates appearing on behalf of the parties are at liberty to bring this order to the notice of the learned Additional District Judge, 2<sup>nd</sup> Court, Nadia, Krishnagar, forthwith.

All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

**(Bibhas Ranjan De, J.)**