

07.02.2023
Item No.1
Ct. No.7
CHC
(disposed of)

C.O. 694 of 2022

Anurupa Mondal
Vs.
Sri Buddhadeb Mondal

Mr. Sarbananda Sanyal
...for the petitioner

Mr. Prabir Adhya,
Mr. Avijit Mukherjee,
Ms. Madhumanti Chakraborty
...for the opposite party

Subject-matter of challenge in this case is against the order dated 4th February, 2022, passed by learned Additional District Judge, 1st Court, at Katwa, Purba Bardhaman, in connection with Matrimonial Suit No.119 of 2006, directing the petitioner/wife to file documents relating to receipt of maintenance from husband/opposite party.

Mr. Sanyal, learned advocate appearing for the petitioner submits that the primary obligation in respect of the amount paid to the wife for her maintenance and her child, is to be discharged by the husband upon production of relevant receipts, and such obligation may not be directed to be discharged by the wife/petitioner upon production of some receipts.

It is thus contended by the petitioner that there cannot be any such direction requiring petitioner/wife to produce documents relating to receipt of maintenance, what she has received from her husband.

Mr. Adhya, learned advocate appearing for the opposite party replies that the husband has deposited a fair amount towards *alimony pendente lite* amounting to Rs.1,54,023/-. Since there has been excess payment made by the husband on account of *alimony pendente lite*, a prayer has been made by the husband seeking adjustment of some amount, what is pending for decision, Mr. Adhya submits.

It is contended by the opposite party that in the midst of claim for adjustment, proposed by the opposite party/husband, the wife/petitioner has come forward with a petition seeking punitive action against the husband, directing stay of proceedings of Matrimonial Suit, which is purposefully initiated, simply to drag the proceedings for an indefinite period of time.

Upon perusal of the impugned order, it appears that there has been a direction upon the wife to produce documents relating to production of receipt of maintenance from her husband.

Learned advocate for the petitioners has fairly submitted that the primary obligation to establish payment made by the husband towards *alimony pendente lite/maintenance* of the wife is on the husband upon production of relevant receipts. Such obligation, cannot be expected to be discharged by the wife/petitioner. This Court shares the same view, as proposed by the learned advocate for the petitioner.

The impugned order is thus modified directing the opposite party/husband to produce relevant documents/receipts towards making payment of *alimony pendente lite/maintenance* on the date scheduled by the court below, so as to decide the claim for adjustment.

It is, however, clarified that while making consideration of adjustment, the petition filed by the wife soliciting punitive action against the husband upon granting stay of the matrimonial proceedings originally filed at the instance of the husband may be taken up for consideration, and both the petitions may be decided together giving a hearing for the purpose to both the sides.

The impugned order is thus modified to the extent mentioned hereinabove. Other portion of the order will however remain unchanged.

Parties are directed to make communication of this order to the court below.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)