

17.07.2023
Sl. No.23(DL)
srm

C.O. No. 1092 of 2022

Sri Debabrata A Pal

Versus

Smt. Swati Pal & Anr.

Mr. Tulshidas Ray,
Mr. Tapan Ray,
Mr. Tirthankar Ray

...for the Petitioner.

Mr. Arijit Dey

...for the Opposite Party No.1.

The petitioner is the husband and has challenged the order dated February 25, 2022 passed by the learned Additional District Judge, Fast Track (2nd Court), Paschim Medinipur in J. Misc. Case No.08 of 2017, which arose out of Mat Suit No.468 of 2017.

The petitioner submits that the learned court below erroneously directed Rs.10,000/- per month to be paid from June 29, 2017, although the earlier order of the learned trial court was modified by this Court and no retrospective payment had been directed. The learned court below also erred in calculating the total dues from June, 2017 to November, 2021 to be Rs.5,40,000/-. Upon subtracting Rs.2,00,000/- already paid, from the said amount, the

outstanding dues on account of maintenance *pendente lite* from the date of the application filed by the wife was calculated at Rs.3,40,000/-. The learned Advocate for the petitioner submits that such a huge sum was directed to be paid within three months from the date of order.

The husband being aggrieved by the quantum of maintenance *pendente lite* at the rate of Rs.20,000/- per month which was earlier awarded by the learned court below, had approached this Court by filing a revisional application. By an interim order, this Court had directed the husband to pay Rs.10,000/- per month towards maintenance *pendente lite* for the wife and the minor child. Such interim order was confirmed by an order dated June 24, 2021 passed in C.O. No.11 of 2021. The husband was directed to pay current alimony at the rate of Rs.10,000/- per month (Rs.6,000/- for the wife and Rs.4,000/- for the daughter). The alimony was directed to be adjusted with any amount that may be paid on the direction of the criminal court. Such amount was to be paid month by month, every month, within 10th of the month beginning from July, 2021 for the month of June, 2021. The arrear dues up to May, 2021 were directed to be cleared within a month.

The wife filed an application for a direction upon the husband to pay arrear maintenance as per the direction of the High Court. The learned court below passed necessary orders by directing arrear maintenance of Rs.3,40,000/- to be paid within three months along with the current alimony, as fixed by the Hon'ble High Court.

Aggrieved, the husband has moved this Court on the grounds, which have been mentioned hereinabove.

The issue with regard to the quantum of maintenance, the period from which the husband was required to pay and the manner and time within such maintenance was to be paid has been finally decided between the parties and the matter cannot be reopened in this revisional application. Moreover, the law is clear that maintenance has to be paid from the date of the application. In this case, it is June 29, 2017. Hence, the learned court below rightly observed that the arrear maintenance from June, 2017 to November, 2021 at the rate of Rs.10,000/- per month has to be paid.

Accordingly, time to pay the arrear maintenance which is now Rs.2,23,000/- as per the learned Advocate for the wife, should be paid in four equal monthly instalments. Each instalment shall be paid with the current monthly maintenance. First instalment shall be paid for the month of

August, 2023. Fraction, if any, be added to the last instalment.

No further indulgence can be given to the husband. In case of default, the suit shall remain stayed.

The revisional application is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)