

Item No. 4
12.10.2023
Court. No. 19
GB

C.O. 1186 of 2023

Suman Sengupta
Vs.
Sujata Sengupta

*Mr. Debajyoti Deb,
Ms. Somdyuti Parekh*

...for the Petitioner.

Ms. Sudeshna Basu Thakur

...for the Opposite Party.

The revisional application arises out of an order dated March 17, 2023 passed by the learned Additional District Judge, 6th Court at Alipore, District – 24 Parganas (South) in Misc. Case No.245 of 2019 arising out of Matrimonial Suit No.118 of 2014.

By the order impugned, the husband has challenged the direction to pay Rs.4,00,000/- per month to the wife as maintenance pendente lite and Rs.5,00,000/- as litigation cost.

It appears that the learned court below did not assign any reasons. It has been recorded that from the affidavit of assets, it appeared that the husband had a huge income and the wife was suffering from serious illness.

In my view, the learned court below ought to have adjudicated the issue in further detail. The affidavit of assets of the husband discloses his personal income, expenses, etc. How the learned court below, arrived at the figure of Rs.4,00,000/- is not available. Moreover, the expenses of the wife on account of her illness is also not available from the records. The court has also not recorded any such finding.

Under such circumstances, this Court is of the view that the application for maintenance pendente lite should be heard afresh, on remand. The order impugned is set aside. The said application shall be heard upon allowing further opportunity to the parties to adduce oral and documentary evidence in support of their individual case, apart from the affidavit of assets which have already been filed.

It is further stated that the affidavit of assets which has been filed by the wife is illegible. Thus, a fresh copy of the affidavit of assets be served upon the learned advocate for the husband in the learned court below.

This Court finds that the husband is a managing director of a company. He draws salary from the company. His salary component has been mentioned in the affidavit of assets, but the turnover of the company is not available. Such fact should also be introduced by evidence. It appears further, that the husband has at least two properties, one of which is his residence and the other has been let out. He has substantial income from rent. The husband has also disclosed his income from interests, dividends, etc. It further appears that the husband was given a house building loan of Rs.88,00,000/- by a bank.

Under such circumstances, this Court directs that as an interim arrangement, Rs.1,00,000/- shall be paid to the wife from the month of October, 2023. Payment for October 2023 shall be made within November 10, 2023 and thereafter month by month every month at the same rate within 10th of every succeeding month. An amount of

Rs.15,00,000/- towards arrears maintenance from the date of filing of the application shall be paid on an ad hoc basis, to the wife. Such payment and acceptance will be subject to the final decision by the learned court below. The quantum of litigation cost will also be adjudicated while deciding the application for maintenance pendente lite. The payment of Rs.15,00,000/- will be made in five equal monthly instalments. First of such instalment shall be paid with the maintenance for October, within the November 10, 2023 and thereafter, within 10th of every month, till the entire amount is liquidated. The learned court below shall proceed with the fresh hearing of the said application. In case of default, this order will stand automatically vacated and the wife will be at liberty to proceed with the execution of the order of the learned court.

Accordingly, the revisional application is disposed of.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)