

26.09.2023
Sl. No.6(DL)
srm

C.O. No. 2138 of 2023

Sri Badal Dey

Versus

Smt. Shilpi Dey

Mr. Kaustav Chandra Das

...for the Petitioner.

Mr. Siddhartha Goswami,
Mr. Shaheb Sadhukhan

...for the Opposite Party.

In a suit for dissolution of marriage being Matrimonial Suit No.64 of 2014, the learned Additional District Judge, 13th Court at Alipore, South 24-Parganas by an order dated April 1, 2023 directed the petitioner/husband to pay a sum of Rs.2,25,000/- as admission fees for an adult unmarried daughter. Such order was passed by invoking power under Section 151 of the Code of Civil Procedure.

Learned Counsel appearing on behalf of the petitioner submits that the learned court below acted beyond jurisdiction in passing the said order as the scope of Sections 24 and 26 of the Hindu Marriage Act was limited to grant of maintenance for minor children. According to learned Counsel, the mother unilaterally got the daughter admitted to a nursing college at Bangalore, without consulting the father and the father was

not in a position to pay the amount from his meagre income. It is further submitted that there are problems between the father and his employer and a writ petition is also pending before this High Court.

Learned Counsel appearing for the opposite party/wife submits that the income of the father was more than Rs.56,000/- in 2006. At present, he earns almost Rs.1,00,000/-. Thus, the argument of the petitioner that he is unable to pay the amount of Rs.2,25,000/- is not tenable. Secondly, it is submitted under the Hindu Adoption and Maintenance Act, 1956 and Section 20 thereof, the daughter was entitled to claim maintenance from the father. Hence, the learned court was within its discretion to allow such payment.

Undoubtedly, the daughter has a right to be maintained by the father and claim maintenance from the father. The daughter is at liberty to proceed under the proper law. The exercise of jurisdiction under Section 151 of the Code of Civil Procedure in a matrimonial suit under the provisions of the Hindu Marriage, was erroneous. The prayer of the mother claiming reimbursement of the admission fees which were deposited at the time of admission of the daughter at Bangalore could not have been allowed. When the law provides for a specific mechanism as to how an adult

unmarried daughter can claim maintenance from the father, the order impugned ought not to have been passed..

However, in order to show his *bona fide*, the father will transmit Rs.50,000/- within a week from date, as a gift to the daughter and not out of any legal obligation in the pending proceedings. The daughter will be at liberty to approach the appropriate forum under the relevant law, if she wants to seek maintenance from her father.

The matrimonial suit will be expedited if the order of this Court is complied with.

The revisional application is, thus, disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)