

S/L 34
03.05.2023
Court. No. 12
Sourav

CO 2072 of 2022

Suresh Tamang
Vs.
Amrita Tamang

Mr. Rwitendra Banerjee
Mr. Debdutta Pathak

...for the petitioner.

Mr. Asif Sohail Tarafdar
Mr. Sharman Sarkar
Mr. Reshab Ahmed Khan

...for the opposite party.

1. Both the petitioner/husband and the opposite party/wife are represented by their respective learned advocates.
2. The present revisional application is now taken up for hearing.
3. Perused the entire materials as placed before this Court. Heard Mr. Banerjee, learned advocate for the petitioner/husband and Mr. Khan, learned advocate for the opposite party/wife at length.
4. The present revisional application is now taken up for passing appropriate order.
5. In this revisional application, the order no. 34 dated 21.06.2022 as passed by the learned Additional District Judge, 4th Court, Paschim Midnapore in J. Misc. Case No. 19 of 2019 arising out of Matrimonial Suit No. 701 of 2019 has been assailed.
6. By the impugned order, learned Trial Court while disposing of an application under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to as

‘the said Act’) directed the present petitioner/husband to pay alimony *pendente lite* at the rate of Rs. 28,000/- per month by the 10th day of each succeeding month for which it becomes due, with a further direction upon the present revisionist/husband to pay a sum of Rs. 50,000/- as litigation cost. The husband who is the opposite party in J. Misc. Case No. 19 of 2019, felt aggrieved with the quantum of alimony *pendente lite* as well as the cost of litigation and thus, preferred the instant revisional application.

7. Mr. Banerjee, learned advocate for the revisionist/husband at the very outset draws attention of this Court to the affidavit-of-assets and liabilities as filed by the present revisionist/husband. It is argued by Mr. Banerjee, learned advocate for the revisionist/husband that considering the fact that the present revisionist/husband’s net income is Rs. 50,924/- as would be evident from his pay slip dated 18.10.2022, the quantum of alimony *pendente lite* as well as the cost of litigation as assessed by the learned Trial Court is practically on the higher side and thus the same is required to be diminished. It is argued by Mr. Banerjee further that the two sons of the parties to the instant *lis* are permanently residing with the revisionist/husband and since both the sons of the present revisionist are still unemployed, he is to maintain his two sons and for which he has to take a personal loan and in order to repay the said loan, the

present revisionist has to pay a sum of Rs. 20,000/- as EMI towards his said personal loan. Mr. Banerjee, learned advocate for the revisionist/husband thus submits before this Court that it is a fit case for allowing the instant revisional application by setting aside the impugned order.

8. *Per contra*, Mr. Khan, learned advocate for the opposite party/wife also places his reliance upon the affidavit-of-assets and liabilities as filed before this Court on behalf of the opposite party/wife. It is submitted by opposite party/wife that from the aforementioned affidavit, it would reveal that the present opposite party is practically without income and she has to earn her livelihood by working as a maid. It is further submitted by the opposite party/wife that since the separation of the present revisionist and the opposite party, the husband has not paid a farthing to the present opposite party. Learned advocate for the opposite party/wife thus submits before this Court that since the present revisionist has miserably failed to make out a case for diminishing the quantum of alimony *pendente lite* and the cost of litigation, the instant revisional application may be dismissed with exemplary cost.
9. On perusal of the entire materials as placed before this Court and after hearing the learned advocate for the contending parties, it reveals to this Court that admittedly the present revisionist has been able to produce a substantive document i.e., his pay slip

from where it reveals that his net income is Rs. 50,924/- after the necessary statutory deduction and a GPF amount of Rs. 9,000/-. In order to substantiate that the present revisionist has to pay an EMI of Rs. 20,000/- per month towards repayment of his personal loan, nothing could be produced to substantiate the same. From the affidavit-of-assets and the liabilities as filed on behalf of the opposite party/wife, it reveals to this Court also that it has been stated categorically by the opposite party/wife that she has to earn her livelihood by working as a maid and nothing could be placed either before the learned Trial Court or before this Court to substantiate that the present opposite party/wife has her independent income to sustain herself.

10. Considering the entire scenario as discussed hereinabove and also considering the fact that the present net income of the revisionist/husband is Rs. 50,924/- and also considering the fact that the present opposite party/wife being the legally married wife of the present revisionist/husband has a right to live with dignity and in standard similar to the status and standard of her husband, this Court considers that justice would be sub-served if the present revisionist/husband is directed to pay alimony *pendente lite* at the rate of Rs. 20,000/-per month instead of Rs. 28,000/- as fixed by the learned Trial Court and the said amount has to be paid by the 10th day of each succeeding month for which it becomes

due. This Court, however, does not intend to interfere with the cost of litigation as assessed by the learned Trial Court and the same will remain intact.

11. It is further directed that the alimony *pendente lite* at the rate of Rs. 20,000/- shall have to be paid from the date of filing of J. Misc. Case No. 19 of 2019 before the learned Trial Court and the arrears of alimony *pendente lite* shall have to be paid in equal instalment of Rs. 10,000/- along with the current *pendente lite* till its liquidation.
12. It is further directed that the cost of litigation to the tune of Rs. 50,000/- as has been assessed by the learned Trial Court shall have to be paid in two equal installments and the first of such installment of Rs. 25,000/- is to be paid by the last day of May, 2023 and the second installment remaining Rs. 25,000/- is to be paid within the last day of July, 2023.
13. It is further directed that the learned advocate for the present opposite party/wife either of this Hon'ble High Court or before the learned Trial Court shall in writing forward the bank details of the present opposite party/wife to the learned advocate for the present revisionist/husband and the petitioner/husband shall have to deposit the alimony *pendente lite* and the cost of litigation in the said bank account. It is also made clear that in the event, the present revisionist/husband fails to pay and/or deposit the alimony *pendente lite* month by month together with arrears alimony *pendente lite* as has

been assessed and directed to be paid and the cost of litigation within the time fixed by this Court, learned Trial Court shall direct the employer of the present revisionist/husband to deduct the aforementioned alimony *pendente lite* together with its arrears, if there be any, and the cost of litigation from the monthly salary of the present revisionist/husband and to credit the same in the account of the opposite party/wife.

14. With the aforementioned observation, the instant revisional application being **CO 2072 of 2022** is hereby disposed of.
15. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Partha Sarathi Sen, J.)