

04.12.2023
Court No. 19
Item no.28
CP

C.O. No. 3721 of 2023

Sri Shibnath Roy

Vs.

Smt. Satabdi Roy (Aich)

Mr. Pratip Mukherjee
Ms. Chaitali Mukhopadhyay

.....for the petitioner.

The petitioner is aggrieved by the order dated September 22, 2023, passed by the learned Principal Judge, Family Court, Calcutta, in Matrimonial Suit No. 177 of 2022. The petitioner filed an application for an order directing the wife to furnish all relevant documents and information which were missing in the affidavit of assets.

The petitioner relies on the decision of the Hon'ble Supreme Court in Rajnesh vs. Neha and submits that an incomplete and inadequate affidavit would mean that the wife was suppressing information by withholding important documents from the court. On such an improper affidavit filed by the wife, adjudication of the application for maintenance pendente lite could not be made.

Accordingly, the husband prayed that the wife be directed to file a fresh affidavit of assets and liabilities and until the same was filed, it was further

prayed that the application under Section 24 of the Hindu Marriage Act, 1955 should not be decided.

The learned court below was of the view that the application filed by the petitioner was not maintainable and the petitioner would have adequate opportunity to contest the application for maintenance on all points, including the point of a defective and incomplete affidavit.

This court is of the view that the learned court had rightly rejected the application, inter alia, holding that adequate opportunity would be given to the husband to contest the application for maintenance pendente lite.

The parties are always at liberty to lead oral and documentary evidence with regard to their standard of living, income etc. The petitioner can approach the learned court below with his prayer to adduce oral evidence.

The learned court below shall dispose of the application for maintenance, upon granting adequate opportunity to both the parties to adduce oral evidence. Both the parties shall be allowed adequate opportunity for cross-examination.

The revisional application is disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)