

14.12.2023
Supplementary
List 01, Ct.2
AJ.

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Appellate Side**

C.O. 112 of 2023

**Subhasis Majumdar
-Vs-
Rupali Dhar**

Mr. Avriyoti Das,
Mr. Rajdeep Das.
.....for the petitioner.

Mr. Subhasish Misra,
Mr. Swarup Das,
Mr. Satyajit Paul.
.....for the opposite party.

The revisional application under Article 227 of the Constitution of India is directed against the order no. 29 dated April 11, 2023 passed by the learned District Judge, Cooch Behar in Misc. Judicial Case No. 11 of 2022 arising out of the Matrimonial Suit No. 63 of 2020.

The petitioner has filed the connected matrimonial suit for dissolution of his marriage with the opposite party by a decree of nullity.

The learned Trial Judge by the order impugned has disposed of an application filed by the opposite party under Section 36 of the Special Marriage Act, 1954 praying alimony pendente lite thereby directing the husband/petitioner to pay alimony pendente lite @ Rs.10,000/- per month from the date of filing of the said application and to pay a further sum of Rs.50,000/- on account of litigation expenses.

The petitioner is aggrieved by the rate of alimony pendente lite and the amount of litigation expenses fixed by the said order.

The petitioner is a primary school teacher. The take home salary of the petitioner as it appears from the order impugned, is Rs.34,770/-.

$1/3^{\text{th}}$ to $1/5^{\text{th}}$ of the disposable income of the husband is the accepted formula to determine the rate of alimony pendente lite, if the said formula is applied in the present case, the opposite party is entitled to a sum of Rs. 8,000/- per month for her maintenance and a sum of Rs. 30,000/- towards litigation expenses is proportionate with the disposable income of the petitioner.

The petitioner therefore is directed to pay alimony pendente lite at the aforesaid rate of Rs. 8,000/- per month from the date of filing of the said application for alimony pendente lite subject to adjustment of the amount of maintenance directed to be paid in the proceeding under Section 125 of Code of Criminal Procedure. The rate of litigation expenses is fixed at the rate of Rs. 30,000/-. The petitioner since has already paid a sum of Rs. 30,000/- to the opposite party although under different heads, the said payment is adjusted against the litigation expenses awarded in favour of the opposite party by this order.

A sum of Rs. 7,000/- per month shall be payable to liquidate the arrear amount of maintenance.

The current along with the arrear alimony shall be paid within 7th day of each month for which it falls due, first of such payment shall be made by 7th January, 2024.

The order impugned is modified to the extent indicated above.

The learned Trial Judge is requested to dispose of the said Matrimonial Suit as expeditiously as possible, preferably within a period of six months from the date of communication of this order and in doing so shall not entertain the prayer of the parties for any unnecessary adjournment.

C.O. 112 of 2023 is thus disposed of without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)