

01.04.2024
Ct. No. 19
Sl. Nos.22 & 2931
Cp

C.O. No. 3964 of 2022

Khusilal Naskar
Vs.
Uma Naskar

With

C.O. 253 of 2023

Uma Naskar
Vs.
Khusilal Naskar

Mr. Tanmoy Mukherjee
Mr. Manoranjan Jana
Ms. Mitali Jana
Mr. Rudranil Das
Mr. Soumava Santra

....for the petitioner
in C.O. No. 3964 of 2022.

Mr. Peasant Bishal

....for the opposite party
in C.O. No. 3964 of 2022.

1. C.O. 3964 of 2022 and C.O. 253 of 2023 are taken up together for hearing and are disposed of by this common order. The same arise out of the order dated November 14, 2022, passed by the learned Additional District Judge, 9th Court, Alipore in Misc. Case No. 15 of 2002. Misc. Case No. 15 of 2002 arises out of Matrimonial Suit No.15 of 2002.
2. By the order impugned, the learned court allowed an application filed by the wife for enhancement of the maintenance, owing to change in circumstances.

Enhancement of salary of the husband to Rs.1,45,000/- per month during the pendency of the Mat Suit and subsequent receipt of a lumpsum amount of money towards retirement benefit, led to this application.

3. The specific case of the wife was that when the order was passed by the High Court with regard to maintenance pendente lite, the salary of the husband was Rs.45,000/-. Subsequently, the husband got a promotion and he retired while drawing a salary of Rs.1,45,000/-. Thereafter, monthly pension of the husband of Rs.53,000/- was received. The wife claimed enhancement for herself and for the unmarried daughter. The learned Trial Judge heard the parties and also considered the orders passed in the proceedings under the Domestic Violence Act and directed that Rs.16,000/- per month as enhanced maintenance from the date of the order, for the petitioner and the daughter.
4. According to the wife, namely, Uma Naskar, the present monthly pension is around Rs.63,779/- and Rs.16,000/- was meagre. Moreover, the superannuation benefits of the husband was around Rs.80,00,000/-.
5. Mr. Mukherjee, learned advocate represents the husband and submits that the order impugned suffers

from various irregularities. The daughter who had attained the age of majority was not entitled to any maintenance under Section 24 of the Hindu Marriage Act. The receipt of the retirement benefits to the extent of Rs.80,00,000/- could not be proved before the court. The son, who is a B. Tech engineer, was also looking after the wife/mother.

6. Having heard the rival contentions of the respective parties, this court is of the view that maintenance for the daughter cannot be directed by the court while deciding an application for enhancement under Section 24 of the Hindu Marriage Act. She had attained majority. However, this court cannot rule out the change in the circumstances, inasmuch as, the income of the husband had gone up in the meantime and at present the pension is around Rs.63,779/-. It cannot be also ruled out that a substantial amount may have been received at the time of retirement as the husband was serving in a responsible and senior post. This is a fit case for enhancement of maintenance pendente lite for the wife.

7. Under such circumstances, both the revisional applications are disposed of with the following modifications to the order impugned:-

- a) Towards arrears, a sum of Rs.2,00,000/- shall be paid to the wife within two weeks from date.

This amount is a rough calculation made by this court having regard to the fact that the income of the husband had substantially increased over a period of time and the status of the wife should have improved with such enhancement. The amount awarded earlier was insufficient, considering the price index.

b) Rs. 13,000/- per month as maintenance pendente lite shall be paid exclusively to the wife, month by month every month, on and from April, 2024 within 10th of the month.

c) The daughter may proceed under the appropriate law for maintenance against her father.

8. It appears that the Matrimonial Suit has been pending for 21 years. The children have attained majority in the meantime and have almost completed their education. The son is 39 years old and the daughter is 28 years old.

9. Thus, in my opinion, the parties should be relegated to mediation and the learned Trial Judge must explore the possibility of a settlement by way of mediation, especially in view of the allegation and counter allegation made by the parties in this regard.

10. The revisional applications are disposed accordingly. There shall be no order as to costs.

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

A photocopy of this judgment and order shall be retained with the records of C.O. 253 of 2023.

(Shampa Sarkar, J.)