

Ct. 09.02
No. 2024
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akb

C.O. 1050 of 2020
Vikash Kumar Bari
-Versus-
Dibya Prasad @ Dibya Kumari Prasad

Mr. Ankit Agarwala
Ms. Alotriya Mukherjee **...For the Petitioner**

Mr. Pawan Kumar Gupta
Mr. Awadesh Rai
Ms. Sofia Nesar
Mr. Santanu Sett **...For the Opposite Party**

This is an application under Article 227 of the Constitution of India preferred against order dated 18th January, 2020 passed by the learned Additional District Judge, 1st Court, Sealdah in Misc. Case No. 29 of 2019 arising out of MAT Suit No. 236 of 2019.

By the impugned order learned Court below while disposing of the application filed by the opposite party / wife, was pleased to direct petitioner / husband to pay monthly maintenance allowance to the tune of Rs. 3,000/- per month within 10th day of each English Calendar month from 17th September, 2019 and also awarded Rs. 10,000/- towards litigation cost.

This Court by its order dated 21st March, 2023 directed both the parties to file affidavit of assets and liabilities in terms of direction given in the case of *Rajnesh Vs. Neha*, reported in (2021) 2 SCC 324. On the basis of such direction both the parties have filed affidavit of assets and

liabilities.

Learned Counsel appearing on behalf of the petitioner submits that from the said affidavit filed by husband / petitioner herein, it reflects that monthly income of the petitioner/husband's net pay is Rs. 34,950/- and gross pay is Rs. 36,900/-.

In her affidavit of assets and liabilities, the opposite party / wife mentioned that presently she is working as SACT-1 (State Aided College Teacher), in Surendranath Evening College, with effect from 1st January, 2020 and that her appointment letter was issued on 22nd July, 2020 and she received such appointment letter on 6th August, 2020. However, from the said statement of income it appears that presently she is getting monthly salary of Rs. 33,875/- . It also appears from copy of her pay slip, which has been filed by the petitioner herein, that her net pay is Rs. 33,675/- per month.

Since all these documents were not available before the Court below, when the order impugned was passed I am of the view that the matter is required to be remanded to the Court below to here afresh in respect of the application filed by the opposite party / wife under Section 24 of the Hindu Marriage Act.

In such view of the matter the order No. 18 dated

18th January, 2020 is hereby set aside. Learned Court below is directed to hear wife / opposite party's application filed under Section 24 of the Act of 1955, afresh taking into account the affidavit of assets and liabilities filed by the parties herein or on the basis of fresh affidavit of assets and liabilities, if the parties chooses to file the same before the Court below in terms of the decision of the Hon'ble Apex Court in the case of *Rajnish Vs. Neha (Supra)* and on the basis of such affidavit of assets and liabilities, the Court below is directed to dispose of the opposite party / wife's application under Section 24 of the Hindu Marriage Act within thirty days from the date of receipt of such affidavit.

I made it clear that I have not gone into the merits of the case and the Court below will dispose of such application without being influenced by any observation made herein.

The revisional application, being C.O. 1050 of 2020 is accordingly disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(Ajoy Kumar Mukherjee, J.)