

04.03.2024
Sl. No.14(ML)
srm

C.O. No. 874 of 2022
Umesh Mahapatra
Versus
Smt. Nandita Mahapatra

Ms. Chaitali Bhattacharya,
Mr. Kartik Chandra Kapas
...for the Petitioner.

Mr. Arijit Dey
...for the Opposite Party.

1. The revisional application arises out of an order dated December 16, 2021 passed by the learned Additional District Judge, 7th Court, Paschim Medinipur, in Judicial Miscellaneous Case No.04 of 2018 arising out of Matrimonial Suit No.19 of 2018.
2. By the order impugned, the learned court directed payment of Rs.5,000/- per month as maintenance *pendente lite* in favour of the wife/opposite party. Further, litigation cost of Rs.30,000/- was directed to be paid.
3. The husband has challenged the said order on the following grounds:
 - (a) The husband's gross salary is Rs.55,094/- per month, whereas the wife's net pay is Rs.48,485/-

per month, as per the document disclosed by the wife which is at page 31 of the revisional application.

(b) The learned court failed to consider the parameters on the basis of which maintenance *pendente lite* was to be decided.

(c) Whether the wife's income was sufficient to maintain herself, should have been the sole consideration. Maintenance would include cost of food, clothing, shelter, medical expenses, etc.

(d) The parties do not have any children.

(e) The wife's income is sufficient for her maintenance and for payment of cost of litigation.

(f) The learned court made comparative analysis of the income of the husband and the wife and proceeded on the basis that only because the husband earned more than the wife, she should be paid some maintenance.

(4) The learned Advocate for the wife submits that although the wife has an income of her own, yet the husband earns more than the wife. He has dragged the wife to court and is bound to pay the maintenance

pendente lite, which is a statutory right under Section 24 of the Hindu Marriage Act.

- (5) This Court finds that the parties do not have any children. It is on record that the wife does not have any dependents. The wife is a school teacher, who earns a gross pay of Rs.53,685/- per month and her net pay is Rs.48,485/- per month. The income of the wife is sufficient for her maintenance.
- (6) Under such circumstances, the portion of the order by which maintenance *pendente lite* of Rs.5,000/- per month was awarded by the court, is set aside.
- (7) However, onetime litigation cost of Rs.30,000/- shall be paid to the wife by the petitioner, within three weeks from date mandatorily. The matrimonial suit shall not proceed till such amount is paid.
- (8) Accordingly, the revisional application is disposed of.
- (9) There shall be no order as to costs.
- (10) Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)