

S/L 3
11.6.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1898 of 2024

Rivu Sarkar
Vs.
Shalini Sarkar

Mr. Somnath Gangopadhyay

...for the Petitioner.

Mr. Suman Chattopadhyay

...for the Opposite Party.

The revisional application under Article 227 of the Constitution of India is directed against the Order No.61 dated February 17, 2024 passed by the 5th Court of learned Additional District Judge, Alipore, District: 24 Parganas (South) in the Matrimonial Suit No.3268 of 2018.

The petitioner has filed the said matrimonial suit for dissolution of his marriage with the opposite party *inter alia*, on the ground of cruelty.

In the said suit, the learned Trial Judge on June 15, 2023 had passed an order of alimony *pendente lite*. The petitioner by an application under Section 151 of the Code of Civil Procedure sought for variation and/or modification of the said order on the ground that there is a change of circumstances affecting his income.

The learned Trial Judge by the order impugned has dismissed the said application holding that there is alternative efficacious remedy provided under the provisions of law to ventilate the grievances, if any, against the contested order.

Maintenance is not a static concept, it varies with the proof of variation of factors regulating the said

concept. The husband is praying variation and/or modification of the order of maintenance on the allegation that his income has been reduced, he should be allowed to prove his such case.

The order impugned is therefore set aside.

The learned Trial Judge shall decide the said application under Section 151 of the Code afresh in accordance with law, after giving the wife/opposite party an opportunity to file written objection, if not already filed.

Needless to say, the application is required to be disposed of expeditiously without granting any unnecessary adjournment to either of the parties.

CO 1898 of 2024 is disposed of with the above observations, there shall be no order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Biswajit Basu, J.)