

Item No.25
05.03.2024
Court. No. 19
GB

C.O.2520 of 2023

Sri Samir Chakraborty
VS
Smt. Mahasree Chakraborty

*Mr. Manas Kumar Das,
Mr. Siddhartha Sarkar,
Mr. Hirak Roy,
Mr. Aritra Kumar Thokdar*

...for the Petitioner.

The revisional application is directed against an order dated May 19, 2023, passed by the learned Additional District Judge, Fast Track 2nd Court at Barrackpore in Matrimonial Suit No.1387 of 2022.

By the order impugned, the learned court directed payment of Rs.7,000/- to the wife as maintenance pendente lite to be payable within 15th of each consecutive month and litigation cost of Rs.10,000/-. The husband has challenged the said order on various grounds:-

- a) The income of the parties was not considered.
- b) The liabilities of the parties were not considered.
- c) The regular expenses of the parties were not considered.

I find substances in the submission of the learned advocate for the petitioner. However, this Court also finds that the learned court ought to have directed payment of maintenance from the date of the application filed under Section 24 of the Hindu Marriage Act. Instead, maintenance has been awarded presumably from the date of the order.

The matter requires fresh hearing. The order impugned is set aside.

The learned court is directed to decide the application under Section 24 of the Hindu Marriage Act afresh, upon taking into consideration the settled principles of law. The payment of Rs.10,000/- as litigation cost shall be made within two weeks as full and final payment under such head. Towards arrear maintenance a further sum of Rs.20,000/- shall be paid by the husband within two weeks as well. Subject to such payment, the learned court shall decide the matter. The ad hoc payment of Rs.20,000/- shall be adjusted against any payment that may be made pursuant to the direction of the court upon further hearing. Only the quantum of maintenance pendente lite shall be decided afresh.

It is made clear that if the husband does not pay the amount as directed by this Court, the wife shall be entitled to pray for execution and the suit shall remain stayed.

The learned court shall decide the application for maintenance pendente lite within a period of three months from the date of communication of this order upon affording opportunities to both the parties to adduce evidence.

Accordingly, the revisional application is disposed of.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)