

21.03.2024
Item No.11
gd/ssd

CO/3168/2023
SRI DEEPAK SHAW
VS
SMT. PUJA SHAW @ PUJA KUMARI SHAW

Mr. Arindam Paul,
Ms. Debarati Das
..for the Petitioner.

Mr. Indranath Mukherjee,
Mr. Sukanta Mondal,
Mr. Prosenjit Saha
..for the O.P.

The husband in a matrimonial suit has challenged the Order No.14 dated 28th July, 2023 passed by the learned Additional District Judge, Fast Track 2nd Court, Barrackpore, North 24 Parganas in Matrimonial Suit No.2164 of 2021 (wrongly recorded in the impugned order as Sessions Case No.2164 of 2021).

By the order impugned the petitioner was directed to pay Rs.7,000/- per month to the wife/opposite party herein as maintenance pendente lite within 10th day of each consecutive month till the disposal of the suit and a sum of Rs.10,000/- as litigation cost.

Mr. Paul, learned advocate appearing for the petitioner submits that the petitioner is working as a helper in the shop owned by his father and he earns

only a sum of Rs.100/- per day on daily basis. He thus submits that it is not possible for the petitioner to pay the alimony at the rate as directed by the order impugned. He further submits that the opposite party is having an independent income and, therefore, she is not entitled to alimony pendente lite.

Mr. Mukherjee, learned advocate appears for the opposite party and submits that the wife does not have any means to support herself and the learned Judge rightly fixed the amount of alimony pendente lite.

Heard the learned advocates for the parties and perused the materials placed.

It appears that the petitioner filed an application for dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act, 1955 before the learned Additional District Judge at Barrackpore being Matrimonial Suit No.2164 of 2021.

In such suit the opposite party herein filed an application under Section 24 of the Hindu Marriage Act, 1955 praying for alimony pendente lite.

The wife claimed a sum of Rs.20,000/- per month on account of alimony pendente lite and a sum of Rs.60,000/- as litigation cost.

The petitioner could not prove that the wife is having an independent income to support herself.

The petitioner in the written objection has stated that his mother is dependent on him.

The learned trial judge after taking into consideration the affidavit of assets and liabilities filed by the petitioner before the learned court below arrived at a finding that the mother cannot be said to be the dependent of the petitioner as the father is able enough to run his own business.

The petitioner/husband being an able bodied person has to maintain his wife.

The learned trial judge fixed a sum of Rs.7,000/- per month as alimony pendente lite. Considering the present price index this court in the facts and circumstances of this case is of the view that the rate of alimony pendente lite fixed by the learned trial judge cannot be said to be unreasonable. Therefore, the impugned order does not call for any interference.

Considering the fact that only a sum of Rs.10,000/- has been awarded as litigation cost, this court is also not inclined to interfere with the amount awarded on account of litigation cost.

With the above observations, CO 3168 of 2023 stands dismissed.

There shall be no order as to costs.

(HIRANMAY BHATTACHARYYA, J.)