

March 19, 2024
Sl. No.44
Court No.19
s.biswas

CO 3713 of 2023

Shelly Chakraborty
vs.
Dr. Arnab Chakraborty

Mr. Kallol Mondal
Mr. Krishan Ray
Mr. Soumik Das
Ms. Anamitra Banerjee

... for the petitioner

Mr. Anand Keshari

... for the opposite party

1. This court finds that the learned Principal Judge, Family Court, Calcutta, rejected the prayer for maintenance pendente lite, made by the wife in IA No.06 of 2022, arising out of Matrimonial Suit No.91 of 2021, on the ground of suppression.
2. Mr. Mondal, learned advocate for the petitioner, submits that an opportunity should be given to the wife to pray for maintenance pendente lite on the ground that she was unaware of the effect of filing the income tax return. Her husband had filed the same.
3. Mr. Anand Keshari, learned advocate for the opposite party/husband, denies such contentions of the wife and submits that income tax return had been filed by the wife. The question of not having knowledge of such return would not arise. Secondly, the wife had suppressed the facts with regard to other proceedings initiated by her. In the proceedings under the Domestic Violence Act,

the court rejected her prayer for maintenance pendente lite.

4. Having heard the respective parties, this court is of the view that parameters in deciding the proceedings under the Domestic Violence Act and Hindu Marriage Act may not be the same.
5. It appears that the petitioner had suppressed the fact that her prayer for maintenance pendente lite had been rejected in a proceeding under the Domestic Violence Act.
6. However, as this is a case in which maintenance has been claimed by an estranged wife alleging that she did not have any income of her own and filing of the income tax return of 2020-21 was controlled by the husband, one more chance should be given to the wife to prove her case before the learned court with regard to the fact that she did not have any income of her own and she was unemployed.
7. The order impugned is modified insofar as the rejection of the application concerned. The petitioner is granted liberty to amend the application being IA No.06 of 2022 by incorporating pleadings as to the fate of the other proceedings initiated by her and other necessary and relevant facts. There should not be any suppression. The husband will be entitled to file

an additional objection to the amended application. The learned court is requested to decide the entire issue afresh, upon inviting the parties to file their affidavits of assets and liabilities. Thereafter, the parties will be allowed to adduce evidence, both oral and documentary evidence and the application for maintenance pendente lite will be disposed of on such evidence and the pleadings.

8. The revisional application stands disposed of.
9. All the parties are directed to act on the basis of the server copy of the order.
10. Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)