

March 5, 2024  
Sl. No.10  
Court No.19  
s.biswas

CO 4051 of 2023

*Anindya Kumar Dutta alias Anindya Dutta*

*vs.*

*Jayanti Dutta (Nee Das)*

Mr. Mukteswar Maity

Ms. Manika Sarkar

... for the petitioner

The order impugned prima facie does not call for any interference as the learned court came to a finding that there was a marriage between the parties. The question whether the marriage will be declared as a nullity or not, will be decided on evidence. It is the case of the husband that the marriage was not consummated and on this ground alone, the marriage should be annulled.

During pendency of such suit, the wife filed an application for maintenance under Section 36 of the Special Marriage Act. The learned court upon consideration of the rival contention of the parties, came to the finding that the husband could not prove that he was just working as 'a servant' in his mother's shop. The marriage was negotiated by an advertisement in the matrimonial column of Bartaman Patrika, where the husband was described as a businessman. The husband who has best knowledge of his income, did not prove his income. Under such circumstances, the court was of the view that if the petitioner could advertise for a matrimonial match, claiming to be a businessman,

the submission that he was 'a servant' in his mother's shop was not believable.

Under such circumstances, although the wife prayed for maintenance pendente lite at the rate of Rs.75000/- per month, the court allowed Rs.5000/- per month as maintenance pendente lite and Rs.10000/- as litigation cost. This court does not find any reason to interfere with the order impugned, as a nominal amount has been directed to be paid. Secondly, the court has arrived at a specific finding that the wife does not have any income. However, this court is of the view that as the issue is with regard to consummation of marriage and the suit has been filed on the ground of the marriage being a nullity, the suit should be disposed of expeditiously.

It appears that the issues have been framed. The learned trial judge is directed to dispose of the suit within six months from the date of communication of this order.

The revision application is disposed of accordingly.

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

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.)**

