

Item No. 9  
03.01.2024  
Court. No. 19  
GB

C.O. 4409 of 2023

Munmun Biswas (Sarkar)  
Vs.  
Ram Prasad Biswas

*Ms. Munmun Biswas (Sarkar)*

*... Petitioner  
(In-Person).*

*Mr. Saikat Chatterjee,  
Mr. P. Pal*

*... for the Opposite Party.*

The revisional application has been filed challenging an order dated October 9, 2023, passed by the learned Additional District Judge, 6<sup>th</sup> Court at Alipore, District – 24 Parganas (South) in Misc. Case No.17 of 2016.

By the order impugned, the learned court directed the husband to pay a sum of Rs.4,000/- per month as maintenance pendente lite, over and above Rs.3,000/- which was already being paid as per the order passed in the proceedings initiated by the wife under the Domestic Violence Act. Litigation cost of Rs.10,000/- was directed to be paid within a month. The payment was directed to be made to the account of the wife which was maintained with the State Bank of India.

The petitioner appears in-person and submits that the order impugned suffers from various irregularities, namely,

- a) The learned court did not take into account the income of the husband

b) The learned court was misguided with the allegation of the husband that the wife had income from tuition and business.

c) The learned court did not take into account the affidavit of assets and liabilities filed by the respective parties which would indicate that the husband had income from other sources over and above the salary.

Mr. Chatterjee, learned advocate appearing on behalf of the opposite party submits that the wife had left her matrimonial home on her own accord. There are allegations of cruelty against the wife. That the wife initiated several frivolous criminal proceedings which were dismissed. The wife was an educated lady who had a business of fabrication and also earned money from private tuitions.

Having considered the rival contentions of the parties, it appears to this Court that the husband is the Deputy Director of Factories under the Government of West Bengal. At present, his income is around 1,25,000/-. The affidavit of assets filed by the husband discloses that he does not have any dependants. In the cross-examination of the wife, a suggestion was put that the wife has an income of Rs.15,000/-. At best, the husband's claim as to the earning of the wife can be assessed from such suggestion. Neither documents nor evidence have been filed by the husband, which would indicate that the wife has a permanent source of income.

It is also submitted by the wife that the cross-examination of the husband would indicate that he had stated that he was unaware of the wife's income either from business or tuition. It also appears from the written objection filed to the application under Section 24 of the Hindu Marriage Act, that the husband was silent about the quantum of income of the wife. A stray mention of the wife being a business woman, would not be enough.

Under such circumstances, even assuming that the wife has some income, it is clear that the wife neither has a secured job nor a permanent source of livelihood. Under such circumstances, the Court has to strike a balance between the husband's income and the wife's expenses. The status which the wife is entitled to enjoy during the period she is separated from her husband, must commensurate with his position as a Deputy Director in a department under the Government of West Bengal.

Under such circumstances, the wife is entitled to enjoy the same status as the husband and she is entitled to an enhanced remuneration. Rent, cost of living, medical expenses, are relevant factors which are taken into consideration as well. Under such circumstances, the opposite party shall pay an amount of Rs.20,000/- per month as maintenance pendente lite which will include Rs.3,000/-, which is already being paid. Such amount shall be paid month by month every month, within 10<sup>th</sup> of each succeeding month on and from January 2024. The maintenance for January 2024 shall be paid within February

10, 2024 and thereafter within the 10<sup>th</sup> of each succeeding month. Arrears at the same rate, from the date of filing of the application till December 2024, shall be paid in twelve equal monthly instalments. Fractions, if any, shall be added to the last instalment. The litigation cost has already been paid. The amount already paid towards maintenance and under the Domestic Violence Act, shall be adjusted with the arrears.

A copy of the revisional application shall be served upon Mr. Chatterjee within the course of the day.

The learned court below shall expedite the matrimonial suit and dispose of the same, provided the opposite party complies with the order of maintenance passed by this Court. The suit should be disposed of within a year from the next date fixed.

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.)**