

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side**

CO 77 of 2024

**Piyush Ray @ Pijush Roy
-versus
Babli Roy**

Mr. Jaydeep Kanta Bhowmik
Mr. Sayantan Bhowmik
Ms. Rikta Sarkar

... for the petitioner.

In this revisional application, the husband being the petitioner has challenged an order being no. 08 dated 8th April, 2024 by which an application for maintenance *pendente lite* under Section 24 of the Hindu Marriage Act, 1955 filed by the opposite party/wife was allowed directing the petitioner to pay Rs.15,000/- (Fifteen Thousand) only per month to the wife towards maintenance *pendente lite* from the date of filing of the said application for the maintenance of the wife and the minor child staying with the wife and to pay Rs.10,000/- (Ten thousand) as litigation cost to the wife. The said application was filed in a matrimonial suit filed by the petitioner (husband) for dissolution of marriage being Matrimonial Suit no. 133 of 2022.

The petitioner says that his income is meager and is not in a position to pay the maintenance *pendente lite* granted by the learned Additional District &

Sessions Judge, 4th Court at Jalpaiguri by the order impugned. The petitioner refers to page 27 of the application which is a document in Bengali language but the date is in English language. The date of the document is 24th April, 2024 i.e., post passing of the order impugned. It is apparently a certificate said to have been issued by a member of Gadong-II Gram Panchayat stating that the petitioner works in a grocery shop and earns Rs.5000/- (Five thousand) only per month. This document has no evidentiary value. That apart and in any event, this document could not have been placed before the learned Judge who after considering the affidavit of assets submitted by the parties and taking note of the status of the parties had fixed the quantum of maintenance *pendente lite*.

Going into the quantum of maintenance, I find that Rs. 15000/- (Fifteen thousand) per month is fair and reasonable for maintaining two persons. The child as appears from the record is aged about 13 years and is undergoing education. A child at the age of 13 must be either in Class VIII or Class IX. The education costs at the prevailing market rate even in a *mafassal* or village cannot be less than Rs.6,000/- (Six thousand) to Rs. 7,000/- (Seven thousand) per month for the child. Taking into the consideration the overall expenses, the balance sum is for the fooding, lodging and other incidental expenses of the child and the wife. The cost

of litigation awarded is not also unreasonable and as per statutory dictum.

In absence of any palpable error apparent on the face of the order or patent illegality, the Courts while exercising superintending jurisdiction under Article 227 of the Constitution of India are loathe in interfering with the orders passed by the district judiciary. On an overall consideration of the facts and submissions made on behalf of the petitioner, I do not find any ground in interfering with the order impugned.

The revisional application, as a consequence thereof, fails and is accordingly dismissed.

It is made clear that in the event the petitioner fails to pay the maintenance *pendente lite* the Court, before which the Matrimonial Suit no. 133 of 2022 is pending, should be free in not proceeding with the same or may explore any other possibility in accordance with law for realization of the maintenance *pendente lite* before hearing the suit.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all formalities.

(Arindam Mukherjee, J.)