

27.
14-07-2025
(Ct. no.06)
debajyoti
(Bench ID
265719)

IN THE HIGH COURT AT CALCUTTA
Civil Revisional Jurisdiction
APPELLATE SIDE
CO 1472 of 2025

Partha Sarathi Banerjee
Vs.
Mrs. Kasturi Basu

Mr. Aasif Husain,
Mr. Ovik Sengupta,
Mr. Mithun Das

... For the Petitioner.

Mr. Dipanjan Datta,
Mr. Sayan Datta,
Mr. Subhajit Chowdhury

... For the Opposite Party.

1. This application under Article 227 of the Constitution of India is at the instance of the husband and is directed against a judgment and order dated October 06, 2023 passed by the learned Additional District Judge, 1st Court, Barasat, North 24 Parganas, in Miscellaneous Case No.03 of 2022. By the order impugned, the petitioner was directed to pay alimony *pendente lite* @ Rs.50,000/- per month and litigation cost @ Rs.2000/- per month to the wife opposite party herein.

2. Learned advocate appearing for the petitioner submits that the petitioner could not file the affidavit of assets as there was a talk of settlement between the parties. Learned advocate further submits that the petitioner is paying a sum of Rs.10,000/- per month to the wife opposite party herein pursuant to an order passed in a proceeding under the Protection of Women Against Domestic Violence Act. He submits that the learned trial Judge without considering such fact has directed the petitioner to pay the alimony at the rate as indicated in the impugned order. Learned advocate

further submits that the wife is having an independent income of her own to sustain herself.

3. Mr. Datta, learned advocate, appearing for the opposite party wife, disputes the submissions made by the learned advocate for the petitioner. He submits that though there was a talk of settlement, but the same did not materialize as the petitioner did not agree to payment of alimony to the wife.

4. In reply, learned advocate for the petitioner submits that he is ready to pay Rs.14,00,000/- on account of permanent alimony to the wife, but the wife opposite party is not willing to accept such amount.

5. Heard learned advocates for the parties and perused the materials on record. The opposite party filed an application for alimony *pendente lite* @ Rs.50,000/- per month and a cost of litigation @ Rs.10,000/- per month. The opposite party herein has stated that the petitioner was an officer of a bank earning Rs.1,50,000/- to 1,80,000/- per month. It is also the specific case of the opposite party that in addition the petitioner is earning a sum of Rs.40,000/- per month from film making projects.

6. The opposite party herein has filed her affidavit of assets and liabilities in support of her contention made in the application for alimony. The petitioner herein did not file any affidavit of assets and liabilities in support of the case that he does not have sufficient income to pay alimony at the rate as directed by the learned trial Judge. It is not in dispute that the petitioner herein at one point of time was employed as an officer of a bank. The learned advocate appearing for the petitioner submits that he resigned from the post of the officer of the bank and now he is unemployed. It is very difficult to believe the contention of the petitioner that an officer of a bank after resigning is not pursuing any vocation whatsoever.

It goes without saying that a person resigns from his present assignment/job only for a better alternative which will increase his income. Though it may be also true that the petitioner may not be earning more after resigning from the earlier job, but the same has to be proved in the manner known to law. The petitioner herein, however, did not file the affidavit of assets and liabilities. In view thereof, an adverse inference has to be drawn against the petitioner for non-filing of the affidavit of assets and liabilities and the court shall presume that his income has increased after his resignation as a Bank Officer.

7. However, since the wife opposite party herein is getting maintenance under the provisions of Protection of Women Against Domestic Violence Act, this Court is of the considered view that the amount which the opposite party is now getting as maintenance under the provisions of the said Act has to be adjusted against the alimony directed to be paid by the petitioner to the wife. Though the learned trial Judge directed litigation cost of Rs.2000/- per month to be paid in addition to the alimony *pendente lite* of Rs.50,000/-, this Court is of the view that a consolidated amount of Rs.50,000/- per month would be sufficient for the wife to contest the litigation also.

8. For such reasons, this Court is inclined to modify the order impugned by directing that the opposite party wife shall be entitled to alimony *pendente lite* and litigation cost totalling Rs.50,000/- per month and the amount of maintenance directed to be paid by the husband petitioner to the wife opposite party pursuant to an order passed in a proceeding under the Protection of Women Against Domestic Violence Act shall be adjusted with the amount of Rs.50,000/- as directed to be paid by this order.

9. This Court, therefore, directs the petitioner shall pay a sum of Rs.40,000/- per month in terms of this order in addition to the amount of maintenance which he is being directed to pay to the wife pursuant to an order passed in a proceeding under the Protection of Women From Domestic Violence Act.

10. CO 1472 of 2025 is, thus, disposed of.

11. Parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

12. Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Hiranmay Bhattacharyya, J.)