

25.04.2025
Court No. 36
Sl. No. 06
Cp

RVW/187/2024
with
CAN/1/2024,
CAN/2/2024
in
CO/2637/2023

Kishan Jaiswal
Vs.
Nisha Singh

Mr. Abhijit Mondal
Ms. Ankita Ghosh

..... for the applicant.

Re: CAN 1 of 2024

CAN 1 of 2024 is an application for condonation of delay under Section 5 of the Limitation Act.

It is contended by the learned advocate appearing on behalf of the applicant that there is approximately 26 days delay in filing the review application.

Sufficient cause is shown for the delay in preferring the review application. The delay in preferring the review application is condoned.

I admit the review application (RVW 187 of 2024) by allowing the application under Section 5 of the Limitation Act, 1963 (CAN 1 of 2024).

Re: RVW 187 of 2024

This is an application for review of an order dated March 28, 2024, passed in C.O. 2637 of 2023. The revisional

application was filed by the applicant who was the estranged husband of the opposite party, challenging the order dated May 2, 2023, passed by the learned Additional District Judge, 2nd Court at Howrah in Misc. Case No.32 of 2019. The Misc. Case No. 32 of 2019 arose out of Matrimonial Suit No. 1171 of 2018.

This court recorded that the only ground of challenge of the order of maintenance passed by the learned trial court was that the applicant did not get the opportunity to contest the proceeding before the learned trial court. The learned trial court awarded Rs.10,000/- per month as maintenance pendente lite and Rs.10,000/- as litigation cost.

This Court found the conduct of the husband to be unsatisfactory, and recorded that the wife had been elaborately cross-examined by the applicant, on her income. The learned trial court had recorded that the wife had some income upto 2018, but did not earn after that. The applicant did not lead any evidence and did not file any document to prove his income. This court recorded that the learned trial court had no other option, but to dispose of the application with the direction to pay Rs.10,000/- per month as a reasonable amount of maintenance pendente lite.

This Court recorded the lack of diligence of the husband, but was of the view that the husband should be

given an opportunity to prove his income. Cost for the dilatory tactics practised by him should be imposed. Thus, the revision application was admitted, granting stay of operation of the order dated May 2, 2023, passed by the learned Additional District Judge, 2nd Court at Howrah in Misc. Case No.32 of 2019, subject to the applicant paying one time litigation cost of Rs.10,000/- and further condition that Rs.5000/- should be paid instead of Rs.10,000/- as current maintenance charges. Towards arrears from June 6, 2019 to March 2024, a sum of Rs.2,00,000/- was directed to be paid in four equal monthly instalments.

The husband has prayed for review of this order on the ground that subsequently he has discovered materials to show that the wife has income and does not deserve to be awarded any maintenance. I do not find anything on record in support of such claim.

Moreover, the order passed by this Court was an ad interim order. The husband has to prove his income. The husband did not lead any evidence in this regard. The cross-examination of the wife resulted in the learned trial court coming to a specific finding that the wife did not earn after 2018. However, this Court had expressed an opinion that the husband should get an opportunity to contest the proceeding and, as such, stayed the operation of the order granting

maintenance of Rs.10,000/- per month and directed the half of the amount to be paid. Towards huge arrears, only Rs.2,00,000/- was directed to be paid. The main revisional application is pending.

The applicant cannot be granted a blanket stay, which in effect, he is praying for, by filing this review. The appropriate court will determine the issue. There is no ground for review of the order of this Court.

The review application is dismissed.

With such dismissal of the review application, connected application being CAN 2 of 2024 (an application for stay) is also dismissed.

(Shampa Sarkar, J.)