

21.08.2025
Court No.25
Item No.10
sudipta

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 2702 of 2022

**Koustav Basu
Vs.
Susmita Basu**

Mr. Pritam Choudhury

...for the petitioner

Mr. Shuvasish Sengupta

Mrs. Subhra Das

Mr. S. Dutta

...for the opposite party

1. Present petitioner has been filed challenging the order 15 dated 03.08.2022 in Misc. Case no. 123 of 2021 whereby the learned Additional District Judge, 13th Court at Alipore while disposing of an application under Section 36 of the Special Marriage Act, 1954, awarded a sum of Rs.12,000/- per month as alimony pendente lite to the respondent / wife and a sum of Rs.12,000/- per month for the minor child as maintenance from the date of filing of the suit. Learned counsel for the petitioner has challenged this order on twin grounds. Firstly, the interim maintenance was granted in the Domestic Violence Act proceedings by the learned Metropolitan Magistrate vide order dated 3rd March, 2021 in Misc. Case no. 39 of 2020 whereby a sum of Rs.6000/- per month for the wife

and Rs.6000/- per month for the minor child was awarded. Learned counsel submits that after passing of this order dated 3rd March, 2021, the opposite party / wife filed an application under Section 36 of the Special Marriage Act, on 15th March, 2021 without disclosing the facts of the filing of Domestic Violence Act proceedings and passing of an order awarding interim maintenance. Learned counsel submits that this shows that the opposite party / wife had not come to the Court with clean hands and suppressed material facts. Learned counsel also submits that the learned Additional District Judge has not taken into account the income and expenditure of the petitioner in right perspective.

2. The revisional jurisdiction as been conferred upon the Court is a very limited jurisdiction and has to be exercised with due circumspection. The Court can interfere into the order in the revisional jurisdiction, only if there is patent illegality, perversity or error apparent on the face of the record. It cannot be disputed that wife has a right to claim maintenance under different statutes as the Domestic Violence Act, Special Marriage Act etc. It is correct that the wife should have disclosed the fact of award of interim maintenance in Domestic Violence Act proceedings, but this

alone cannot be a ground to set aside the impugned order. In the impugned order, the learned Additional District Judge had made a detailed discussion on the basis of which the alimony pendente lite has been awarded to the wife and maintenance to the son.

3. Thus, this Court considers that there is no illegality, impropriety or perversity in the order of the learned Trial Court. However, the amount awarded under the Domestic Violence Act proceedings shall be adjusted towards the amount awarded under the impugned order.
4. With the aforesaid observations, the petition being C.O. 2702 of 2022 stands disposed of.
5. All parties shall on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)