

16.06.2025
Court No.25
Item No.104
sudipta

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

C.O. 3096 of 2022

**Sikha Ghosh
Vs.
Jayanto Ghosh**

Mr. Subhamoy Bhattacharya
Mr. Shankar Mukherjee

...for the petitioner

Mr. Debanik Banerjee
Mr. Aniruddha Ganguly
Mr. Huzaifa Shahid

...for the opposite parties

1. Present petition has been filed challenging the order no. 97 dated 16th of July, 2022 whereby the learned Additional District Judge, 10th Court, Alipore, South 24 Parganas, dismissed Misc. Case no. 40 of 2014 i.e. application under Section 24 of the Hindu Marriage Act.
2. The grievance of the petitioner is that the learned Trial Court rejected the application merely on the ground that the petitioner / wife did not mention the reason as to why she has been staying away from her husband within three months of marriage.
3. Learned counsel for the petitioner submits that the learned Trial Court did not take into account the pre-requisite of Section 24 of the Hindu Marriage Act and mechanically rejected the application.

4. Learned counsel for the opposite party has invited the attention of the Court to the evidence of the petitioner / wife to emphasise the point that the petitioner / wife had left the matrimonial home only after 15 days of the marriage. Learned counsel submits that the learned Trial Court was well within his rights to reject the application as the petitioner / wife had abandoned her matrimonial home only after two weeks of the marriage. Learned counsel for the opposite party has also submitted that the evidence also makes it clear that the petitioner / wife is duly qualified.

5. Section 24 of the Hindu Marriage Act which provides the grant of maintenance *pendente lite* and expenses of proceedings is a piece of benevolent legislation. It has repeatedly been held that such provisions need beneficial interpretation. The purposes of such provision are to give support to the non-earning spouse during the pendency of the proceedings.

6. The Court while deciding such proceeding has to take into account several factors including the income of the parties. The Court is also required to take into account the need of the applicant and capacity of the non-applicant. The fact that a party abandons matrimonial home, may be one of

the reasons for declining the maintenance, but such a reason has to be examined along with all other attendant facts and circumstances. The reasons are the lifeline of any judicial order. Any judicial order bereft of logic or reason cannot sustain in the eyes of law.

7. In the present case learned Additional District Judge seems to have swayed away by a single factor of wife leaving the matrimonial home within 15 days of marriage.

8. The Court has to bear in mind that such litigations are not simply adversary litigation. The Court has to be an active participant and must itself dive into the facts and finds out the truth.

9. Thus the impugned order cannot be sustained in the eyes of law. Hence, the same is set aside.

10. The matter is remanded back to the learned Trial Court for deciding the application under Section 24 of the Hindu Marriage Act filed by the petitioner afresh in accordance with the law taking into account the material available on the record. Learned Trial Court may also call for the affidavit of income and expenditure of both the parties.

11. Learned Trial Court is directed to decide the proceeding within three months.

12. Learned Trial Court shall pass the order without being influenced by the order passed by this Court.

13. Hence, the present petition stands disposed of.

14. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)