

Item No.11&12
10.04.2026
Court. No. 12
GB

CO 3909 of 2025
With
CAN 1 of 2025

Sukriti Kumar Bowali
Vs.
Papiya Bowali

With

CO 4159 of 2025

Papiya Bowali
Vs.
Sukriti Kumar Bowali

*Mr. Gangadhar Das,
Mr. Tanmoy Chattopadhyay*

*...for the Petitioner
(in CO 4159 of 2025 & Respondent
In CO 3909 of 2025).*

1. CAN 1 of 2025 is an application for recalling of the order dated December 3, 2025 passed by this Court in CO 3909 of 2025 with CO 4159 of 2025.
2. C.O. 3909 of 2025 was filed by the husband challenging an order dated September 18, 2025. By the order impugned, the learned Additional District Judge, 3rd Court at Barasat disposed of the Misc. Case No.210 of 2019, by directing maintenance pendente lite @ RS.10,000/- for the wife and Rs.12,000/- for the minor daughter. A lumpsum cost of Rs.20,000/- was awarded as litigation cost.
3. C.O. 4159 of 2025 was filed by the wife challenging the same order on the ground that the amount awarded by the court was inadequate. By the time the order was passed, the husband was designated as

the Joint Commissioner of Sales Tax and he had an approximate income of Rs.1,50,000/-, per month.

4. Both the civil revisional applications were disposed of with the following observations.

*“13. The husband who was an employee of the government was drawing his salary during that period. There is no contrary indication in the records that his salary was reduced. Life had come to a standstill for the wife, as the proceedings were delayed. The decision in **Jasbir Kaur Sehgal (SMT) (supra)** which has been relied upon by Mr. Chatterjee, clearly states that the discretion of the court to award maintenance depends on the conduct of the parties. The conduct of the husband in this case, has not been praiseworthy. He defaulted in payment of the loan in respect of the flats where the wife and the child were residing. The wife and the child were forced out of the said flat by the bank. The wife had to plead with the Chief Manager of the bank to allow her to take back her articles. Further, the order passed by the Judicial Magistrate in the proceeding under the DV Act, has not been complied with, which has compelled the court to issue a warrant of arrest in the execution case. In such a situation, the discretion of the court can never be exercised in favour of either reducing the quantum of maintenance or directing that the maintenance should be paid from a later date. This is also not a case that the wife has inflated the income of the husband. The husband's income is available in his salary slip. Income of the wife from the beauty parlour was recorded by the court, but it appears to this court that the income tax returns filed by the wife were upto the year 2017-2018. Hence, there is no proof at this moment that, the wife has a steady income from the beauty parlour. Under such circumstances, the law laid down by the Hon'ble Apex Court that the maintenance should be paid from the date of the application has to be followed.*

14. The arrear maintenance shall be paid in 12 equal monthly instalments along with the current maintenance of Rs. 30,000 per month, within the 15th of each month. First of such instalment shall be paid with the maintenance for December, 2025, within 15th December, 2025. Thereafter,

each instalment shall be paid month by month every month with the monthly maintenance within 15th of each month, till the entire amount is liquidated. The monthly instalment should continue to be paid till disposal of the Matrimonial Suit @ Rs.30,000/- per month, within 15th of each month.

15. Rs.1,00,000/- which has been paid to the wife as per direction of this court, will be treated as a lumpsum payment towards litigation cost. The proceedings under the DV Act, shall be decided on its own merits. If any amount has already been paid pursuant to the direction of the criminal court, that shall be adjusted from the arrears. In case of default, the suit shall remain stayed and the wife can proceed in accordance with law.

16. The order impugned is accordingly modified.

17. The revisional applications are accordingly disposed of. There shall be no order as to costs. Parties are to act on the server copy of this order.”

5. The husband has filed this application for recall of the order on the ground that the learned trial Judge had not appreciated the monthly take home salary and deductions from the gross salary due to loan obtained by the husband from his GPF account on account of purchase of immovable property in the name of the wife.
6. In my opinion, all the issues have been decided in the civil revisional applications. The husband did not challenge the said order dated December 3, 2025 before the superior court but, has come up by filing this recalling application seeking rehearing of the matters. This approach of the husband is not appreciated and there appears to be no plausible ground for recall of the order.

7. None appears on behalf of the husband in support of the recalling application. Moreover, it is submitted on behalf of the wife that the order of this Court has not been complied with.
8. Accordingly, the application being CAN 1 of 2025 is dismissed for default and the wife will be at liberty to pray for execution of the order of maintenance before the appropriate court, if such application has not already been filed.

(Shampa Sarkar, J.)