

S/L 27
06.11.2025
Court No.1
(Susanta)

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION

CO 82 of 2025

Sri Sandeep Jain
Vs.
Smt. Iti Bachhawat nee Jain

Mr. Aniruddha Chatterjee, Sr. Adv.,
Mr. Avrajyoti Das,
Mr. Rajdeep Das,

... for the Petitioner

Mr. Francis Samson Correa,(VC)
Ms. Bedashruti Bose,
Mr. Subham Chanda,
Ms. Sneha Singh,

.... For the Opposite Parties.

The revisional application under Article 227 of the Constitution of India is directed against the Order no. 12 dated April 21, 2025 passed by the learned District Judge, Fast Track Court at Siliguri, District-Darjeeling in Matrimonial Suit no. 96 of 2023.

The learned District Judge, by the order impugned has disposed of an application for alimony *pendente lite* under Section 24 of the Hindu Marriage Act, 1955 (hereinafter referred to “*the said Act of 1955*”) by directing the husband, the petitioner herein to pay alimony pendente lite @ Rs. 30,000/- (Rupees thirty thousand only) per month, each for the wife and the minor son of the parties and to pay a further sum of Rs. 30,000/- (Rupees thirty thousand only) on account of litigation expenses.

Mr. Aniruddha Chatterjee, learned Senior counsel for the petitioner submits that Section 24 of the said Act of 1955 demands determination of income of the parties before fixing the amount of alimony but such exercise has not been carried out by the learned Trial Judge, therefore the order impugned suffers from material irregularity.

Mr. Francis Samson Correa, learned counsel for the opposite party submits that the husband has different sources of income but has suppressed it.

Heard learned counsel for the parties, perused the materials-on-record.

The Court, while dealing with an application under Section 24 of the said Act of 1955, is obliged to come to a finding, may be tentative, regarding the income of the parties and having regard to such income, is required to fix the amount of alimony *pendente lite*.

It appears that the learned Trial Judge did not come to a finding regarding the income of the husband and wife.

In this context, the following observation of the Hon'ble Division Bench of this Court in the case of **ASHIT MUKHERJEE vs. SMT. SUSMITA MUKHERJEE(NEE ROY) AND ANOTHER** reported in **AIR 1987 Cal 153** being relevant, is quoted below: -

"4.

In this view of the law, we have no doubt that the Court having been required by S. 24 of the Hindu Marriage Act to have regard to the income of the parties in ordering payment of pendente lite maintenance by one spouse to the other, must take into consideration such income in making such order and if the court does not do so or does not pay that regard, then it cannot but be said that the Court has acted in breach of the relevant provisions of law and has, therefore, "acted illegally"

...."

The order impugned, for the above reason, is set aside.

The learned Trial Judge is requested to decide the said application for alimony *pendente lite* afresh after taking evidence of the parties.

The application be disposed of as expeditiously as possible, preferably **within a period of six weeks from the date of communication of this order** and in doing so, the learned Trial Judge shall not grant any unnecessary adjournment to either of the parties.

Till the disposal of the said application, the husband, without prejudice to his rights and contentions, shall keep on paying maintenance to the wife and the child @ Rs. 20,000/- (Rupees twenty thousand) only per month. The amounts paid in terms of this order shall be adjusted with the final amount of alimony *pendente lite* to be paid.

C.O. 82 of 2025 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)