

12.02.2025
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**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURIDICITION
APPELLATE SIDE**

C.O. 186 of 2024

**Smt. Ankita Sikdar
-VS-
Jibak Mazumdar**

Mr. Sudipto Kr. Mazumder
Mr. Subhajyoti Ghosh

... for the petitioner

An order of the learned Additional District Judge, Fast Track Court at Cooch Behar dated August 29, 2024 in Misc. Judicial Case No. 31 of 2023 is under challenge in the present revision.

In spite of service of notice, no one is appearing for the opposite party/husband.

Hence, the case is being taken up for final determination, in absence of the opposite party.

Mr. Mazumder, learned advocate is appearing for the petitioner. He says that the impugned order dated August 29, 2024 by the trial court is bereft of due consideration of the materials on record and thus is erroneous. He would further say that since the Court has proceeded without considering the assets declared by the present petitioner as well as the respective affidavits before the court as filed by

the parties, it has come to a decision which is not only erroneous but also in contravention of the settled provisions of law, so far as maintenance pendente lite is concerned.

Mr. Mazumdar, learned advocate for the petitioner seeks that the order as impugned in the present case may be set aside and appropriate directions may be made.

Heard the submissions and perused the records. It appears that the Court by dint of the order dated August 29, 2024 has granted an amount of 6,000/- per month to the present petitioner as alimony pendente lite, from the date of the order i.e. August 29, 2024.

So far as the Court's finding for grant of alimony pendente lite from the date of passing of the order by the Court and not granting it from the date of filing of the petition, the Court has not assigned any reason in the impugned order.

It is further to be found that the alimony pendente lite amount has been determined without any basis insofar as the Court has failed to consider the monthly income of the present opposite party/husband, on the basis of which the alimony pendente lite amount should have been fixed, in accordance with law.

In its decision making process the Court has neither considered the statement made by the present petitioner/wife as regards income of the husband nor the self-declaration of the opposite party/husband as regards the monthly income has been taken into consideration by the Court.

Thus, the amount of alimony pendente lite as determined by the Court to the tune of Rs., 6,000/- per month is based on no material.

Under such circumstances, the determination by the Court in the impugned order dated August 29, 2024 in his Misc. Judicial Case No. 31 of 2023 is not in accordance with law and is liable to be set aside.

On the finding as above, the impugned order dated August 29, 2024 in Misc. Judicial Case No. 31 of 2023 passed by the learned Additional District & Sessions Judge, Cooch Behar, is set aside.

The Court is directed to consider the petitioner's prayer for alimony pendente lite afresh on the basis of the respective affidavits submitted before it as well as the other documents available before it.

Let this exercise be completed by the Court by affording an opportunity of hearing to the petitioner as well as the opposite party, if available and

without granting any unnecessary adjournment to any of the parties.

With the above directions, the C.O. 186 of 2024 is disposed of.

(Rai Chattopadhyay, J.)