

CO. 4407 of 2025

06.05.26
D/L
SI-01
Ct. 06
(Samar)

Sujal Kumar Malik
V.
Sharmistha Mondal

Mr. Sujal Kumar Malik,
... for the petitioner.
Mr. Ashis Kumar Chowdhury,
Mr. Babhru Bahan Bera,
Mr. Rohan Paul,
....for the opposite party.

1. Affidavit of service filed in Court today is taken on record.
2. This revisional application is directed against an order dated November 10, 2025 passed by the learned Additional District and Sessions Judge, 7th Court, Barasat, North 24- Parganas in Misc. Case 61 of 2025 arising out of Mat Suit No. 1964 of 2024 whereby the opposite party's application under Section 24 of the Hindu Marriage Act, 1955 has been allowed.
3. The opposite party has instituted Matrimonial Suit No. 1964 of 2024 before the learned Additional District and Sessions Judge, 7th Court at Barasat seeking a decree for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955. In the said suit, the opposite party filed an application under Section 24 of the 1955 Act praying for alimony *pendente lite*.

4. The said application was contested by the petitioner, by filing a written objection. Both the parties filed their affidavits of assets and liabilities in terms of the directions of the Hon' ble Supreme Court in the case of ***Rajnesh Vs. Neha & Anr.*** reported at ***(2021) 2 SCC 324.***
5. Upon hearing the said application, the learned Trial Court has disposed of the same by the order dated November 10, 2025 thereby directing the petitioner to pay a sum of Rs. 15,000/- per month to the opposite party and Rs. 15,000/- per month to the minor child (aggregating to Rs. 30,000/- per month) from the date of the said application i.e. February 18, 2025. A further direction to pay litigation costs to the tune of Rs. 10,000/- has also been passed. Feeling aggrieved thereby, the petitioner has approached this Court by filing the present revisional application.
6. It is the petitioner's case in the revisional application that the learned Trial Court has passed the order without appreciating the affidavit of assets and liabilities filed by the petitioner and other material on record only on the basis of the opposite party's affidavit of assets and liabilities. This Court notes that the petitioner has mentioned in paragraph 7 of the revisional application that he has also filed an application under Section 379/383

of the Bharatiya Nagarik Suraksha Sanhita (BNSS) before the learned Trial Court which is pending.

7. The petitioner, appearing in person submits that the order impugned is perverse inasmuch as the same has been passed without taking into consideration the material on record. He invites the attention of the Court to the affidavit of assets and liabilities filed by the petitioner before the learned Trial Court and demonstrates that in the said affidavit under the caption "*Information provided by the deponent with respect to the income, assets and liabilities of the other spouse*" he has clearly mentioned that the monthly net take home salary of the opposite party is Rs. 43,720/-. He then takes the Court to a letter dated January 31, 2025 issued by the West Bengal Central School Service Commission to the opposite party thereby intimating the opposite party that she had been appointed to the post of Assistant Teacher for Upper Primary Level of Classes in Bakra Girls' Junior High Upper Primary School.
8. He next takes the court through the salary slips of the opposite party (Page 58 to 62 of the application) to demonstrate that the gross salary of the opposite party as on February 20, 2025 was Rs. 43,920/- and the net salary was Rs. 43,720/-.
9. Inviting the attention of the Court to paragraph 5.1

of the order impugned, it is submitted that it will be evident therefrom that the learned Trial Court has only perused the statements of assets and liabilities filed by the opposite party (i.e. the petitioner before the learned Trial Court) and not the affidavit of assets and liabilities filed by the petitioner herein. He thereafter indicates that in paragraph 3 of the order impugned learned Trial Court has observed that the petitioner could not show any document of any income of his wife. He submits that taking the aforesaid observations of the learned Trial Court cumulatively it will be evident that the learned Trial Court has proceeded only on the basis of the documents furnished by the opposite party and has not taken into consideration any evidence that has been brought on record by the petitioner.

10. He further submits that while the petitioner had clearly indicated in his affidavit of assets and liabilities that his income was Rs. 68,000/- yet, the learned Trial Court has chosen to give credence to the petitioner's averments in the written objection filed by him where his income has been mentioned as Rs. 62,850/-. He submits that this will show that there has been total non-application of mind to the matter by the learned Trial Court.

11. He submits that he has been paying Rs.20,000/- to his wife every month in terms of the

order passed by the learned 2nd Additional Judicial Magistrate, Basirhat, North 24- Parganas, in Complaint Case No. 67 of 2021.

12. The petitioner relies on the judgment of the Hon'ble Supreme Court in the case of *Rajnish (supra)* and submits that in terms of the said judgment, it was obligatory on the part of the opposite party to intimate the actual financial status to the Court. He submits that he has filed an application under the relevant provisions of the Bharatiya Nagarik Suraksha Sanhita (BNSS) for appropriate orders against the opposite party for making false representations before Court.
13. Learned advocate appearing for the opposite party, submits that at the time when the opposite party had filed the application for alimony *pendente lite* under Section 24 of the 1955 Act, the opposite party had not yet been appointed to the post of Assistant Teacher and the letter of appointment reached the opposite party only later on. However, he is unable to deny that the opposite party is indeed gainfully employed as an Assistant Teacher.
14. Having heard the learned respective parties and having considered the material on record, this court is of the view that the order impugned cannot be sustained.
15. It is evident from the impugned order that the

learned Trial Court has not considered any of the material brought on record by the petitioner and held that the petitioner was “*not able to show any document of any income of his wife*”. Such observation is factually incorrect. The letter of appointment and the salary slips of the opposite party form annexure to the affidavit of assets and liabilities filed by the petitioner. The same were very much there before the learned Trial Court at the time of consideration of the opposite party’s application under Section 24 of the 1955 Act. The said documents have clearly not been taken into consideration by the learned Trial Court. The said materials constituted relevant evidence and non-consideration thereof renders the order bad and liable to be interfered with.

16. Further, it was obligatory for the opposite party to bring her actual financial status at the time of consideration of the application under section 24 of the 1955 Act and the opposite party could not have kept silent even after securing a gainful employment during pendency of the application under Section 24 of the 1955 Act.

17. Thus the order dated November 10, 2025 cannot stand judicial scrutiny and is accordingly set aside. The learned Trial Court shall reconsider the matter upon properly appreciating all the

material on record. The learned Trial Court shall also take consideration the fact that the petitioner is already paying a sum of Rs. 20,000/- per month in terms of the order passed by the learned 2nd Additional Judicial Magistrate, Basirhat, North 24-Parganas, in Complaint Case No. 67 of 2021. It is noticed that the said aspect has been noted by the learned Trial Court in paragraph 3.5 of the order impugned.

18. Needless to mention that while considering the opposite party's application under Section 24 of the 1955 Act the learned Trial Court shall be guided by the observations of the Hon'ble Supreme Court in the case of *Rajnesh (supra)* and shall pass appropriate orders in accordance with law.
19. The learned Trial Court shall dispose of the opposite party's application under Section 24 of the 1955 Act as expeditiously as possible and positively within a period of one month from the next date fixed without granting any unnecessary adjournment to either of the parties.
20. With the above observations, CO. 4407 of 2025 stands disposed of. No costs.
21. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)

