

04.12.2023
Sl. No.5(DL)
srm

C.O. No. 1298 of 2023

Tanmoy Ghosh

Versus

Lipika Ghosh

Mr. Manas Kumar Das

...for the Petitioner.

Mr. Jisan Hossain,

Ms. Chandrima Debnath

...for the Opposite Party.

The revisional application arises out of an order dated December 22, 2022 passed by the learned Additional District Judge, Fast Track, 1st Court, Kandi, Murshidabad, in Misc. Case No.5 of 2022 arising out of MAT Suit No.193 of 2021.

The petitioner submits that the learned court below had erroneously awarded Rs.4,500/- each for the opposite party and the child, subject to necessary adjustment or set off against the maintenance amount, if any, awarded in other proceedings.

The petitioner contends that the records of another proceeding would reveal that the opposite party herself, had admitted that she earns some money as salary, whereas in the misc. case, the opposite party had contended that she did not have any income.

The learned Advocate for the petitioner submits that in view of the above, the learned court below ought to have rejected the said application on the ground of suppression.

The learned Advocate for the opposite party/wife, submits that the wife works as a helper in a private school for children and gets a minimum wage. The said job was also not in the nature of a secured regular appointment. Hence, the amount of Rs.4,500/- per month was justified.

Having heard learned Advocates for the respective parties, this Court finds that the learned court below had proceeded on the specific averment of the opposite party that she did not have any income, whereas the objection filed by the opposite party in another proceeding indicates that she had stated that the child was being maintained from her salary and her parents also contributed towards such maintenance.

Thus, even if the wife has some income, the fact that her income was not sufficient to maintain herself and her child is evident from the averments in the objection, which Mr. Das, learned Advocate for the petitioner relies on. The opposite party had specifically contended that her parents have to help her financially.

Under such circumstances, this Court is of the view that even if the income of the wife was not taken into consideration

by the learned court below, this court finds that the wife's income may not be sufficient. A menial job in a private school will not grant her financial stability. Moreover, the petitioner has not been able to demonstrate that the opposite party is gainfully employed. The law is well settled that the wife should not only enjoy the status which she was enjoying in her matrimonial home but the wife was entitled to continue to live in the same status as the husband.

The revisional application is disposed of by directing the petitioner to pay Rs.3,000/- per month towards maintenance *pendente lite* to the wife and Rs.4,500/- per month to the child, on and from the date of the filing of the application upon adjusting the amounts already paid. The amount of Rs.10,000/- which was paid as litigation cost, shall not be adjusted. Such payment shall continue month by month, every month, on and from December, 2023. The maintenance for December, 2023 shall be paid within January 7, 2023. Thereafter regular payment shall be made at the rate directed hereinabove, within the 7th of every succeeding month. The arrear maintenance from the date of filing of the application, till November, 2023, if any, shall be paid in two equal monthly instalments upon adjustment of Rs.20,000/- which was already paid by the order of this Court.

The learned court below shall proceed in accordance with law and dispose of the matrimonial suit.

The revisional application is, thus, disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)