

Misc Judicial Case No. 10/2023
Arising out of Mat Suit No. 145/2022

Order No. 16,
Dated: 11-06-2024,

Both the parties files hazira through their ld. lawyers
Today is date fixed for passing order.
The record is taken up for the same.

The present Misc case is arises on being the application made by petitioner/wife of the Mat suit no. 145 of 2022 praying for monthly alimony to the tune of Rs. 25,000/- as maintenance and litigation cost of Rs. 30,000/- from her O.P/husband.

Perused the petition u/s 36 of the Special Marriage Act, 1954 filed by the petitioner/wife as well as the written objection filed by the O.P/husband against the same and the affidavit on record filed by the parties.

It is the contention of the petitioner/wife that at present she is residing separately with her husband due to torture upon her and her husband after leaving her at her parental house on 15-05-2021 never came forward to take her back and since then she is residing at the mercy of her parents. She has no source of income of her own. Her O.P/husband is a government servant works as a pharmacist at the office of C.M.O.H, Cooch Behar having monthly salary to the tune of Rs. 65,000/- and in spite of having such income her husband is not providing with any maintenance to her and hence by filing the petition she has prayed for monthly alimony to the tune of Rs. 25,000/- as maintenance and litigation cost of Rs. 30,000/- from her O.P/husband.

The O.P/husband contested the present application by filing his written objection denying all the material averments made in the petition by the petitioner/wife u/s 36 of the Special Marriage Act. The O.P/husband admitted about his service with the health department and stated that his monthly salary is Rs. 42,390/- out of which he has to repay for the loan obtained by him during his marriage to the tune of Rs. 14,500/- per month and besides that Rs. 2,740/- has been deducted as statutory deduction from his monthly salary and he gets only Rs. 25,150/- per month out of which he has to look after his ailing mother who is suffering from heart disease and also his unemployed brother and accordingly he prays for dismissal of the prayer of the petitioner/wife.

Heard the submissions of the Ld. Counsels appearing on behalf of the respective parties.

Perused the affidavit filed by the parties.

It is admitted case of the party that they are husband and wife and presently they are residing separately. It is also admitted position of the case that the O.P/husband is a government servant and the petitioner/wife has got no source of income of her own.

On going through the affidavit as well as the copy of the salary statement filed by the O.P/husband it appears that the gross salary of the O.P/ husband for the month of May, 2024 was Rs. 45,230/- out of which he has to pay loan amount of Rs.

13,334/- as installment of loan and his monthly deduction was Rs. 2,740/- and his net salary was Rs. 29,156/-.

according to the affidavit filed by the O.P/husband his general monthly expenses is Rs. 7,000/-.

It is the admitted position of our law that it is duty of the husband to provide maintenance to his wife, when the wife has got no source of income of her own.

Marital relation between the parties is not disputed. Admittedly it appears that the petitioner/wife has got no source of income of her own. On the other hand admittedly, it appears that the O.P/husband is a government servant and he has regular monthly income. Considering the such facts of the case and considering the income and expenses of the O.P/husband and the social status of the parties, I think it will be just and proper to direct the O.P/husband to provide a sum of Rs. 9,000/- per month for the petitioner/wife towards pendente lite alimony and Rs. 10,000/- towards the litigation cost.

Hence, it is

o r d e r e d

That the application under Sec. 36 of the Special Marriage Act, 1954 is hereby allowed on contest but without any cost.

The petitioner/wife is entitled to get pendente lite alimony to the tune of Rs. 9,000/- per month from the date of filing of the present case till disposal of the suit.

The O.P/husband is also directed to make payment of Rs. 9,000/- per month to the petitioner/wife according to English Calendar month within 10th day of every succeeding month.

The O.P husband is further directed to pay to the tune of Rs. 10,000/- as litigation cost to the petitioner/wife within two months from this date.

The arrear maintenance amount be paid within six months from the date of passing of this order to the petitioner/wife along with the current pendente lite alimony amount.

The Misc Judicial Case is accordingly stands disposed of.

Dictated & corrected by me,

Additional District Judge,
Dinhata.

Additional District Judge,
Dinhata.