In the Court of Additional District Judge, 2nd Court, Chinsurah, Hooghly.

MAT SUIT NO. 783 of 2013
CIS: Matrimonial Suit 2614 of 2014
CNR:WBHG01-004308-2013

Present Smt. Arundhati Bhattacharjee, Additional District Judge, 2nd court, Hooghly, J.O Code: WB00768

Order No. 70
Dated 08.02.2023

Both parties are present by filing hajirah.

Today is fixed for passing order in respect of the petition dated 26.04.2022 filed by the petitioner husband praying for modification/alteration of the alimony pendente lite.

Perused the petition.

It is stated in the petition that alimony pendente lite prayer of the respondent wife was allowed ex parte on 08.04.2015. The petitioner was directed to pay alimony to the tune of Rs. 6,000/- p.m towards maintenance of the wife and Rs. 4,000/- p.m towards maintenance of the minor son w.e.f 29.05.2014. The respondent challenged the order dated 08.04.15 before the Hon'ble Court by the respondent and the Hon'ble Court (vide C.O No. 1565/2015) was pleased to modify the order. The Hon'ble Court, vide order dated 21.01.2016, enhanced the alimony amount from Rs. 6,000/- to Rs. 8,000/- payable to wife and Rs. 4,000/- to Rs. 5,000/- payable to the minor son. Subsequently, the petitioner filed an application before this Court for modification of the order dated 08.04.15 as the son attained majority. The petition got the order modified.

Further stated by the petitioner that the respondent filed a money execution case on 06.08.2015 being No. 94 of 2015 which was dismissed on 22.03.2022. The respondent filed a Misc Case being No. 381 of 2021 u/s 125 Cr.P.C alongwith an adinterim prayer of maintenance before the Ld. C.J.M, Hooghly. The case was transferred to Ld. J.M 2nd Court, Chinsurah, Hooghly and subsequently, on 06.04.2022 the ad interim prayer of maintenance was rejected by the Ld. J.M. It is also stated that the respondent filed a Misc Case being No. 100 of 2014 in the Court of Ld. C.J.M, Hoogly u/s 12 of the P.W.D.V Act. The case was transferred to the Court of Ld. 3rd J.M, Chinsurah. In that case, the respondent's prayer for interim maintenance prayer was allowed on 17.07.2014 and the husband petitioner was directed to pay Rs. 3,000/- p.m. The petitioner challenged the said order by filing a criminal appeal before Ld. Sessions Judge, Hooghly vide Cri. Appeal No. 100015 of 2014 and the Ld. Sessions Judge vide order dated 07.01.2015 set aside the dated 17.07.14. However, the criminal case under PWDV Act is still pending.

Further stated by the petitioner that i) the respondent is now working in a multi-national company namely Vestige Marketing Pvt. Ltd and at present she is designated as "leading lady of 'Vestige", ii) she is now earning Rs. 70,000/- to Rs 80,000/- per month from salary, incentive, commission, perks etc, iii) she has a residential house in her name at Adisaptagram under P.S: Mogra, iv) she is owner of a luxurious car of Hyundai i20 Asta(O) model having registration number WB16 BD 8081 and the value of the car is Rs. 9.41 lac to Rs. 11.3 lacs (as per data available in website), v) she is owner of a two wheeler (Rodeo of Mahindra and Mahindra company), vi) she used to work as manager in Shree Nursing Electric Store prior to her present assignment and she earned huge amount, vii) she is a regular Income-Tax payer (PAN No: AMWPM1680E) under ward No. 24(2) of Hooghly and her gross income in the assessment year 2015-16 was Rs. 2,25,890/- and in the assessment year 2019-20 was Rs. 3,54,382/-.

Further stated by the petitioner that the respondent made false statement in both the Trial Court and in the Hon'ble High Court and concealed her income. Due to non-collection of documentary evidence, the petitioner had to suffer in both the Courts. The petitioner has alleged that the respondent willfully avoided to file the Income-Tax returns before the Ld. 2nd J.M, Chinsurah in the Misc. Case No. 381/2021 and is still trying to avoid submitting the current Income-Tax return before this Court.

The petitioner has stated that in the changed circumstances, the order of maintenance pendente lite passed on 08.04.2015 is required to be modified. He has also stated that the petitioner is not entitled to get any alimony pendente lite.

In support of the averments of the modification petition, the petitioner has filed xerox copies of some documents:- 1) Letter dated 24.12.2007 issued by the Shree Nursing Electric Stores relating to appointment of Seema Majumder, 2) Tax return of Seema Mondal for the assessment year 2015-16, 3) Tax return (acknowledgement) of Seema Mondal for the assessment year 2019-20, 4) Details of RC book in respect of vehicle being No. WB16BD 8081 (i20 ASTA-O) in the name of Seema Majumdar Mondal and 5) Copy of petition u/s 125 Cr.P.C in Misc Case No. 381 of 2021.

I have thoroughly scrutinized the case record. The genesis of filing the modification petition dated 26.04.2022 is as follows:-

- On 08.04.2015 the petition u/s 36 of the Special Marriage Act was allowed ex parte and the husband petitioner was directed to pay Rs. 6,000/- per month for the respondent wife and Rs. 4,000/- per month for the minor son within 25th day of each month towards maintenance pendente lite and one time payment of Rs. 10,000/- as litigation cost.

- The order dated 08.04.2015 was challenged by the petitioner by filing a revisional application before the Hon'ble High Court, Calcutta vide C.O No. 1565 of 2015 and on 21.01.16, the Hon'ble Court enhanced the amount payable to the wife from the Rs. 6,000/- p.m to Rs. 8,000/- p.m and to the son from the Rs. 4,000/- p.m to Rs. 5,000/-p.m, to be paid on and from February, 2016. The Hon'ble Court allowed the wife to take steps against her husband in accordance with law if the husband fails to comply the order of alimony pendente lite.

- The petitioner husband filed an application on 08.09.2015 u/s 151 C.P.C before this Court praying for modification of order dated 08.04.2015. In that petition he stated that the son was born on 1.9.1996 and he attained majority. The said petition was allowed on contest vide order No. 13 dated 05.10.2015. The alimony pendente lite payable to the son was stopped. However, the rest part of the order dated 08.04.2015 was kept intact.

- Vide order No. 15 dated 20.02.2016 this Court declared that the order dated 05.10.2015 infructuous as the Hon'ble Court had been pleased to modify the order dated 08.04.2015 by passing order dated 21.01.2016 in the C.O No. 1565 of 2015.

- On 22.07.2016, in the said C.O No. 1565 of 2015 (with CAN 5435 of 2016), the Hon'ble Court modified the order dated 21.01.16 to the extent of allowing the husband to seek recall and/or review of the order dated 08.04.2015 for fresh determination in the event of filing an application by the petitioner husband before this court within a period of four weeks from 22.07.16. However, the Hon'ble Court observed that the order dated 21.01.2016 passed by the Hon'ble Court shall continue till such fresh determination.

- On 28.07.2017, in the said C.O No. 1565 of 2015 (with CAN 11382 of 2016), the Hon'ble Court, modified the order dated 22.07.2016 to the extent of granting a leave to the petitioner to file an application for recall and/or review of order dated 08.04.15 for within four weeks from 28.07.17.

In the backdrop of the aforesaid incidents, the petition dated 26.04.2022 was filed.

Upon consideration of the facts and circumstances, it appears that the time granted by the Hon'ble Court for seeking modification of the order dated 08.04.2015 has already been elapsed four weeks after 28.07.2017. The petitioner has already lost the leave granted to him by the Hon'ble Court after expiry of four weeks from the order dated 28.07.2017.

In view of this matter, the modification petition filed by the petitioner on 26.04.2022 is rejected on contest.

To _24.02.2023_ for P.H.

Dictated & Corrected by me,

Addl. District Judge, 2nd Court,
Chinsurah, Hooghly

Addl. District Judge, 2nd Court,
Chinsurah, Hooghly