

Misc Case No.31 of 2023

Order dated 05.01.2024 :

Today is fixed for passing ex parte order in connection with the petition for interim relief.

The petitioner is present by filing hazira.

Hazira filed on behalf of the respondents along with fresh vokalatnama and show cause as well as ex parte vacating petition.

Heard submission of Ld. Advocates of both the parties.

It appears from the record that the respondents appeared on 16.05.2023 by filing vokalatnama and also filed their written objection.

Subsequently, the date was fixed for filing affidavit of assets and liabilities by the respondent No.1. However, in spite of several opportunities the respondent No.1 did not file affidavit of assets and liabilities and the prayer for adjournment was allowed as final chance subject to cost of Rs.1,000/- vide order dated 05.08.2023. On 30.09.2023 the respondent No.1 did not file the affidavit of assets and liabilities and also did not make payment of the cost. Similarly, on 20.12.2023 as well on 27.12.2023 the respondent No.1 did not file affidavit of assets and liabilities and as a result, the next date was fixed for ex parte hearing of petition for interim reliefs.

On 27.12.2023 no steps was taken by the respondents and the petition for interim reliefs was heard ex parte.

At this juncture, the respondents have filed this ex parte vacating petition but neither has filed affidavit of assets and liabilities nor made payment of the imposed cost. Therefore, no situation has arisen to allow the respondents to submit regarding the petition for interim relief thereby modifying the order passed on 20.12.2023. As such, the petition for interim relief is taken up for passing order ex parte.

The brief fact of the petition is that the aggrieved person is the legally married wife of the respondent No.1 having their marriage solemnized on 19.04.2018 and after her marriage she went to her matrimonial house and started residing there with the respondents. It is alleged that the respondents started inflicting physical and mental torture upon the aggrieved person in demand of Rs.2 lakhs and also pressurized her to construct a new house for the respondents. When the aggrieved person expressed her inability to meet their demands she was assaulted by the respondent No.1. On 01.03.2020 the aggrieved person was again assaulted by the respondents and they drove her out from her matrimonial house. Having no other alternative, the

aggrieved person took shelter at her matrimonial house. The respondent No.1 is an able bodied person and he earns Rs.50,000/- per month from his business. On the other hand, the aggrieved person has no independent source of income and she has prayed for interim reliefs for her maintenance.

As reiterated above in spite of providing several opportunities on numerous occasions the respondent No.1 did not file affidavit of assets and liabilities and the instant petition was heard exparte.

Considered the facts and circumstances of the instant case. Perused the instant petition, affidavit of assets and liabilities filed by the petitioner as well as all the other materials on record.

The aggrieved person has alleged to have been subjected to domestic violence by the respondents during her stay at her matrimonial house. The aggrieved person has also alleged that she was physically assaulted by the respondents in demand of money and other valuable articles. As the respondents did not controvert statement made by the aggrieved person this Court has no reason to dis-believe the same. Moreover, the respondent No.1 did not file affidavit of assets and liabilities before the Court in spite of being directed on numerous occasions. The un-controverted statement of the aggrieved person is supported by affidavit of assets and liabilities thereby claiming that the respondent No.1 earns Rs.50,000/- per month from his business. Therefore, considering all the aspects the respondent No.1 is directed to make payment of Rs.8,000/- per month in favour of the aggrieved person as interim monetary relief since the date of filing of this case. As the aggrieved person is residing separately from the respondents no protection order is passed at this stage.

Hence, it is,

Ordered

That the instant petition praying for monetary reliefs is considered and allowed exparte.

The respondent no.1 is directed to make payment of Rs. 8,000/- per month in favour of the aggrieved person as interim monetary relief since the date of filing of this case and he is further directed to pay the maintenance by 10th day of each succeeding English calendar month.

As the aggrieved person is residing separately from the respondents no protection order is passed at this stage.

Let a copy of this order be given to the aggrieved person free of cost.

Fix 15-04-2024 for hearing of the ex parte vacating petition and filing of affidavit of assets and liabilities by the respondents i.d ex parte evidence.

D/C

J. M. 4th Court
Howrah.