

MC – 53/2022
CNR NO. : WBHW120008072022
J.O. Code : WB01208

Order dated 30.09.2023

Today is the date fixed for passing interim order & evidence of PW(s).

Petitioner is present by filing hazira and OP is absent by petition and his concerned Advocate express readiness for evidence. Petitioner deposed as PW-1 in chief in full. Cross examination of PW-1 deferred on the prayer of the OP. OP prayed further time for cross examination and the same hereby allowed on consent.

Both the Ld. advocates are present. Now the case record taken for passing order of interim maintenance petition. On the last occasion a full fledged hearing be done. Ld. advocate for the O.P. made his stress on the point that that the petitioner is self dependent and gets pension from Mill, whereas the O.P. gets pension of Rs. 26,495/- per month. Ld. Advocate for the petitioner submitted that the petitioner is in need of financial support as she has been living a life in distress condition. Moreover she has no income of her own, however the OP is a retired person and has monthly income of Rs. 60,000/-. Petitioner prayed for Rs. 8,000/- per month for herself as interim maintenance. Having heard both sides at length and after perusal the materials on record, it appears to me that the interim maintenance application is allowable pending disposal of the case for the following reasons:-

1. Both sides admit the fact of son and mother relationship.
2. The petitioner is residing in her matrimonial home.
3. The petitioner has no income of own as nothing supportive came.
4. The O.P. is not maintaining the petitioner.
5. Both sides allegations against each other are subject to full-fledged trial.
6. The very purpose and scope of the legislative intention u/s 125 Cr.P.C is to provide the maintenance (either interim or permanent) to avoid the restitution and urgency of the petitioner and during pendency the litigation costs or day to day cost of the case also permissible and comes under the ambit of this section.
7. Pending disposal of the case and any other involved issues. This court has jurisdiction to grant interim maintenance allowance until disposal of the case.
8. O.P. admitted that he is a pension holder and gets Rs. 26,495/- and nothing at this stage adverse came that the O.P. is not an able bodied person.
9. The interim maintenance petition is duly supported with an affidavit sward by the petitioner.
10. Both sides filed affidavit as per the direction of Hon'ble Apex Court.

Hence it is ordered that the application for interim maintenance by the petitioner is allowed on contest and finally disposed off. The O.P. shall pay @ Rs 2,000/- p.m. to the petitioner as interim maintenance allowance according to the English calendar by the 10th of each succeeding month till the disposal of this case in default of which petitioner would be at liberty to take recourse to law.

This order would have an effect from the date of filing of the petition of interim maintenance.

O/P is also directed to pay the arrear interim maintenance allowances which becomes due to the petitioner by dint of this order, to the petitioner within a span of six (06) months in six (06) equal installments from this date.

Let a copy of the order of interim maintenance be given to the petitioner, free of cost, as per the provision of Section 128 of the code.

Fixing 22-02-2024 for cross examination of PW-1.

Both sides to come prepare.

D/C by me.

J.M. 1st Court Uluberia

Sd/-
J.M. 1st Court Uluberia