

MC – 45/2021
CNR NO. : WBHW120008242021
J.O. Code : WB01208

Order dated 22.06.2023

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

Petitioner is present by filing hazira and the O.P. files taraf hazira. Petitioner deposed as PW-1 in examination in chief and the safe deferred on prayer pof the petitioner. Petitioner prayed further time for further examination in chief 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 the petitioner at her own will residing at her paternal house, the O.P. no where in his W.O. mentioned his income but in his affidavit of assets and liabilities it is found that the OP is a Senior Software Engineer and his monthly income is Rs. 68,857/- . 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, whereas OP is an Electric Engineer in Cognizant Technology Solution company and earns Rs. 70,000/- per month and also has well decorated flat of 700 sqft. and also has fixed deposit of Rs. 40 lakhs. Beside that father of the OP was a govt service holder and gets pension. Petitioner prayed for Rs. 20,000/- 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 marriage.
2. The petitioner is residing in her parents home.
3. The petitioner has no income of own as nothing supportive came.
4. The O.P. is not maintaining the petitioner at present and it is found as admitted factum during hearing that from January'2021 to October'2021 the O.P. transferred Rs.4,000/- per month through NEFT.
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 works as Senior Software Engineer in Cognizant Technology Solutions India Pvt. Ltd 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 sworn 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 4,000/- 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 01.11.2021.

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 19-10-2023 for further evidence of PW-1.

Both sides to come prepare.

D/C by me.

J.M. 1st Court Uluberia

Sd/-
J.M. 1st Court Uluberia