

Mat Suit No. 233 of 2017
Smt Seema Ghosh Roy =Vs= Sri Tanmoy Roy
Present: Smt Sonalee Nandy Chakrabarti.

Order No.19
dated 02.01.19

The record is taken up for passing order upon the application under Section 36 of the Special Marriage Act filed by the petitioner/wife, praying for alimony to the tune of Rs.50,000/- per month for her herself and Rs.1,00,000/- per month for the minor daughter, together with litigation cost of Rs.5,00,000/-

Heard the Ld Counsels appearing on behalf of the respective sides. Perused the rival contentions made in the application as well as the Written Objection submitted thereto along with the documents submitted therewith.

It is not disputed that the marriage between the parties was solemnized on 15.07.2005 according to Special Marriage Act followed by a social marriage held on 26.11.2006 and from the wedlock of the parties, a female child was born on 08.09.2007 who is now aged about 10 years, studying at St. Judis' High School. It appears from the averment made in the application of the petitioner/wife that she has been residing with her minor daughter separately under compelling circumstances. Though she is an Assistant School teacher of Agarpara Balika Vidyalaya but her income is not sufficient and she cannot maintain the minor daughter properly and she requires financial assistance from the respondent for maintaining the minor daughter comfortably. She stated that her husband, the respondent, earns Rs.5,00,000/- per month as Manager and Software Engineer of Unitech Hitech Structures Ltd.

On the other hand, the respondent/husband has stated in his written objection that he is an employee of a private sector company HCL and he is earning Rs.1,15,000/- per month towards salary. He also stated that he has been suffering from blood cancer since 2012 and also an acute patient of Orthoscopy and in support of his contention he filed a xerox copy of salary slips and medical bills to that effect.

Having considered the rival contentions made by the parties as well as the documents filed by them in support thereof with regard to their income, status and liabilities and as it appears that the mother of the child has got sufficient income having salary of Rs.49607/- per month and so she has sufficient income to maintain herself and further the petitioner/wife is

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residing in the house of the respondent with her daughter, whereas the respondent has to stay elsewhere. Now regarding the maintenance of the minor daughter as per the decision cited in 2016(2) ICC (Cal)200, the Hon'ble Court was pleased to hold that "*to ensure the welfare and well-being of the minor and in discharge of such duty is under a duty to direct the father to maintain the child even if the mother is having sufficient means to maintain the child as the father cannot evade his moral and legal responsibility of maintaining the child*", I find that it would be justified to award alimony to the respondent/wife a sum of Rs.15,000/-per month for the minor daughter with effect from the date of this order, together with litigation cost of Rs.20,000/- at this stage.

Hence, it is

Ordered

That the application under Section 36 of the Special Marriage Act is allowed on contest.

The Respondent/husband is directed to pay Rs.15,000/- per month for the minor daughter with effect from this date of order and a litigation cost of Rs.20,000/-.

It is further directed that alimony for every current month commencing from the month of January, 2019 shall be paid within 10th of every succeeding month. It is also directed that the litigation cost shall be paid within one month from the date of this Order.

To 02.04.19 for reconciliation.

Dict. & corrected by me,

3rd Addl. District Judge

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Barasat