

Present: Tanmoy Roy
Judicial Magistrate, 5th Court, Barrackpore

M Case -354/23
T.R. No -403/23
CIS NO 354/23
CNR NO WBNP 150021362023
JO Code - WB01288

Krishna Thakur	Petitioner
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-VS-

Mamata Thakur and Dipankar Thakur	Opposite party (OP)
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Order dated : 09.07.24

Today is fixed for interim hearing.

Both parties are present by filing hazira.

W/O and W/S, asset declaration filed by the OP.

Heard both sides.

The prima-facie case of the petitioners as it appears from the petition is that petitioner is the biological mother of the OP's and she has been suffering from different ailments for which she had to incurred huge financial burden. Petitioner is a widow lady and dependent upon the OP's for her survival. OP's tortured the petitioner on several occasions and also does not take proper care of her. On the contrary, OP's are able bodied person and does have earning of Rs. 15,000 and 12,000/- each per month . In this circumstances, petitioner prayed for interim maintenance of Rs. 14,000/- (8000 + 6000) from both the OP's for petitioner per month.

OP No 2 appeared in this case and filed W/O against the interim maintenance petition of petitioners in which he denied all the allegations against him. He denied the allegations of petitioner in their petition. He further added in the W/O that all the allegations of the petitioner is concocted stories. He lastly added in his W/O that all the allegations of the petitioners are fictitious and concocted stories.

Perused the materials on record.

On perusal of the assets declaration affidavit filed by the petitioner, it primarily appears that she does not have any earning of her own. On the contrary, OP in his assets declaration affidavit admitted the maternity of the petitioner. But stated to have income of Rs. 18,000/- per month. It is important to note here that Section 125 Primarily provides relief to be sought from the son mainly in exceptional cases the daughter of any person can be forced to pay maintenance to her mother. In thisb

case petitioner has prayed for maintenance from both her daughter and son but in my opinion when the son is being ordered to pay maintenance then the daughter cannot be forced for the same. OP being the son of petitioner cannot hide his face from legal and moral duties towards her. As petitioner does have income from pension I am not willing to allow a hefty maintenance order in favour of the petitioner. Accordingly, petitioner is entitled to maintenance.

Considering the present facts and circumstances, status of the parties and other associated factors, I am of the opinion that the interim maintenance to the tune of Rs. 5000/- per month for petitioner would be just and proper at this stage.

Hence, it is

O R D E R E D

that OP is directed to pay interim maintenance to the tune of Rs. 5000/- per month for petitioner till the disposal of this M Case.

Interim maintenance for a particular month shall be paid within 10th of next corresponding English calendar month. The order shall take effect from the date of filing of this case.

Let a copy of this order sheet be given to petitioner side free of cost.

To 22/1/25 for evidence.

[Signature]

JM 5th Court, Barrackpore