

Misc. case no. 48/2023

19.12.2023

Today is fixed for hearing of the petition u/s. 23 of the PWDV Act filed by the petitioner praying for interim maintenance in the tune of Rs. 60,000/- per month against the respondent. Lawyer's haziras have been filed on behalf of both sides. The Affidavit of Assets have also been filed on behalf of both sides, as directed.

The case record is taken up for hearing.

Having heard the submissions of the Ld. Lawyers appearing on behalf of the parties concerned and having consulted with the materials on record, it appears that the petitioner is the married wife of the respondent no. 1 and due to intervention of some domestic incident, the petitioner was compelled to take shelter at her father's house and the respondent is the Central Government Employee earning more than Rs. 1 lac per month and whereas, the petitioner has no source of income. During the course of hearing, it further appears that the only issue of the petitioner and the respondent no. 1 named Soumik Kumar Bhattacharya is the student of B.A, LLB (H) of Amity University, Joypur and he is residing under the custody of the respondent no. 1, who is meeting with the maintenance including the educational expenditures of his son. The respondent no. 1 has filed photocopies of several documents which reflects that the educational expenses of his son at Amity University is very high.

Per contra, the petitioner's Lawyer has submitted that the son of the parties has already attend the age of majority and therefore, he is not entitled to get any maintenance allowance from his father according to law. However, I do not agree with such contentions of the petitioner's Lawyer. It is the duty of the respondent no. 1 to incur the educational expenses of his son at Amity University, Joypur till completion of his course. It further appears that the respondent no. 1 as the Central Government Employee rendering his services at South Eastern Railway, Adra Division is earning a sum of Rs. 1,04,975/- per month as his gross salary and he has been receiving a sum of Rs. 63,274/- per month as his net salary. This is settle principle of law that the respondent no. 1 is only entitled to take the benefit to the extent of his statutory deductions.

Considering, the four corners of the forgoing discussions and the status of the parties and high price rise index of articles, I find that it would not be unjust for either party if the respondent no. 1 is directed to pay to the petitioner a sum of Rs. 15,000/- per month towards her interim maintenance allowance for her livelihood.

Hence, it is

Ordered

that the petition u/s. 23 of the PWDV Act filed by the petitioner praying for interim maintenance against the respondent no. 1 is hereby allowed in part on contest and the respondent no. 1 is directed to pay to the petitioner a sum of Rs. 15,000/- per month towards her interim maintenance allowance for her livelihood within 7th day of each succeeding month.

The order of interim maintenance would have its retrospective effect since the date of filing of the petition u/s. 23 of the PWDV Act by the petitioner i.e on and from 21.04.2023.

The respondent no. 1 is directed to pay the arrears of interim maintenance allowance to the petitioner within 10th equal monthly installments along with the regular payment of interim maintenance allowance in favour of the petitioner.

Let a free photocopy of this order be served upon the petitioner.

To **15.03.2024** for evidence of the parties.

D/C
Sd./-

Sd./-
A.C.J.M, Raghunathpur

Later:
19.12.2023

Since the parties are interested to settle their matrimonial dispute through mediation as revealed from the submission of the Ld. Lawyers appearing on behalf of the parties concerned, both the parties are directed to appear before the Ld. Mediator namely Baban Mishra on 10.01.2024 for settling the matrimonial dispute of the parties concerned by compromise through mediation.

Inform both sides accordingly.

Let a copy of this order be served upon the Ld. Mediator through the office of SDLSC, Raghunathpur for his information and necessary action.

To **10.01.2024** for appearance of the parties before the Ld. Mediator.

Sd./-
A.C.J.M, Raghunathpur