CNR No: WBSP01-013902-2018
Present: Subhra Som Ghosal
J.O Code: WB00984
MAT Suit No: 2755 of 2018

Order No. 50, dated: 18-03-2024.
Both parties to the suit are present by filing their respective haziras.
The petitioner has filed a petition supported by affidavit, praying for extension of the order of ad-interim temporary injunction.
As stipulated by the previous order, today is fixed for hearing of the petition dated 13-02-2024 filed by the respondent praying for stay of all further proceeding of this Matrimonial Suit.
Copy has already been served on the Ld. Advocate for the other side. No written objection has been filed by the petitioner.
On-call Learned Advocates for both the parties are found to be present. Hence the case record is taken up for hearing.
Learned Advocate for the respondent/wife, in resonance to the petition submitted that the respondent being the estranged wife of the petitioner has filed the petition under Section 36 of the Special Marriage Act, 1954 and such petition has been registered as Misc. case being No. 42 of 2020 and is pending for adjudication. It was also submitted that the petitioner/husband has not paid any maintenance to the respondent/wife. Maintaining on this; it was submitted by the Learned Advocate for the respondent/wife that being hamstrung by paucity of resources, the respondent/wife is finding it very difficult to proceed with the Matrimonial Suit and this suit needs to be stayed until that particular Misc. Case is finally disposed. In order to bolster his contention, the Ld. Advocate for the respondent/wife relied on the decision of the Hon'ble High Court reported in ***Sunil Bansal vs Meeta Bansal, 2018 (4) ICC 48 (Cal)***.
The learned advocate for the petitioner/husband raised cavil to such prayer, and in all his fairness; submitted that the present position of law as enunciated by the Hon'ble High Court supports the prayer of the respondent, but this Court needs to stay alive to the facts of this case. Inviting my attention to the case record it was argued that this Court has passed and order of ad-interim injunction against the respondent/wife and from time to time it has been extended by this Court and if the prayer of the respondent/wife is allowed without making necessary orders in respect of the temporary injunction petition, in that event it will percolate injustice to the petitioner.
I have meticulously inspected the case record staying alive to the points mooted before me.
It has transpired from the case record that the respondent/wife filed a petition on 13th February 2024 praying for stay of this Matrimonial Suit, till disposal of the Misc. Case being No. 42 of 2020 initiated by the respondent/wife under section 36 Special Marriage Act, 1954. That petition is under adjudication in this order.
It is axiomatic from the case record that the petitioner/husband initiated the Matrimonial Suit invoking Section 24 and 25 of the Special Marriage Act, 1954. After filing of the suit, the petitioner filed an application praying for temporary injunction and an order of ad-interim injunction was passed the Learned District Judge, Alipore on 27-09-2018. Thereafter the respondent/wife appeared and after her appearance she has filed an application under Section 36 of the Special Marriage Act, 1954 and such petition has been duly registered as Misc. Judicial Case and has been numbered as 42 of 2020. In such proceeding affidavit of assets and liabilities has already been filed and the case is now pending for final hearing.

In this backdrop it will be assuredly profitable for this Court to fumigate my mind with the following observations of the Hon'ble High Court in ***Mitali Deb v. Nirupam Das, (Calcutta) : Law Finder Doc Id # 2147852 : 2023 (1) HLR 471*** which has reiterated the finding of the Hon'ble High Court in ***Sunil Bansal vs Meeta Bansal, 2018 (4) ICC 48 (Cal)***. The relevant part observations run in the following lines:

"7. Having considered the submission Having considered the submission of both sides, it appears that it is no longer res integra that application praying for alimony pendente lite should be disposed of with utmost expedition providing an opportunity of hearing to fighting couple. 8. The litigation cost is a significant component within the meaning of alimony pendente lite, so as to set up defence properly upon incurring incidental expenses for the purpose.

9. When it is the specific submission disclosed by the petitioner that in the absence of litigation cost being granted, it would be quite impracticable to insist upon the defending spouse to file written statement, the court below should proceed to decide the petition praying for alimony pendente lite with utmost expedition, before venturing upon returning decision in connection with the ex parte hearing of the suit already set by the court below.

10. It is not the case of the petitioner, presented by the wife that she is not willing to contest the case upon filing written statement, but it is for the financial distress, allegedly suffered by the petitioner/wife, the written statement could not be filed earlier, doing adherence to Order 8, Rule 1 C.P.C."

The mandate of the Hon'ble High Court is clear and unambiguous and no further elaboration in context of the point raised is necessary in view of the clear enunciation of law made by the Hon'ble High Court.

Hence the prayer as submitted by the respondent/wife by petition dated 13/02/2024 stands allowed. The present Matrimonial Suit shall remain stayed till the Misc. Case being No. 42 of 2020 is finally disposed of.

Neither party to this suit prayed for expeditious disposal of the temporary injunction petition. Hence the ad-interim order granted by the Learned District Judge, Alipore is extended till the next date.

Fix 06-06-2024 for further order.

B.C-II is directed to take note of the fact in all concerned registers as well as in the CIS.

A copy of this order in PDF/PDFA format be uploaded to the server following the modalities of Rule 121A of the Civil Rules and Order of the Hon'ble High Court [since amended by Notification No. 131-G dated 15-01-2015].

Typed to the dictation directly;
corrected on the system.

Sd/-Subhra Som Ghosal
Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

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Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

CNR No: WBSP010012152020
Present: Subhra Som Ghosal
J.O Code: WB00984
Misc. Case No. 42 of 2020
[Arising out MAT Suit No: 2755 of 2018]

Order No. 51, dated: 18-03-2024.
Both parties to this Case are present by filing their respective haziras and have been represented through their respective Ld. Advocates.
Affidavit of assets and liabilities along with documents has been filed by the opposite party/husband.
Copy has been served on the Ld. Advocate for the petitioner/wife.
Let it be kept with the case record.
Fix 06-06-2024 for hearing of the Misc case.
A copy of this order in PDF/PDFA format be uploaded to the server following the modalities of Rule 121A of the Civil Rules and Order of the Hon'ble High Court [since amended by Notification No. 131-G dated 15-01-2015].
Typed to the dictation directly;
corrected on the system.

Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.

Additional District and Sessions Judge,
01st Court, Alipore, South 24 parganas.