

Mat. Suit No.349/2016
(CIS-247/15)

Order No. 18

Dated. 16.01.2019

Both parties file haziras through their respective lawyers. Today is fixed for hearing of petition dt. 06.08.2018 filed by the opposite party/wife and the petition dt.01.10.2018 filed by petitioner/husband.

Accordingly, at first, petition dt.06.08.2018 filed by opposite party/wife is taken up for hearing. Ld. Lawyer for the OP/wife that Ld. Court has been pleased to dispose of the application U/s 36 of the Special Marriage Act and granted an alimony pendente lite of the minor son @ Rs.6000/- per month. Considering the market rate, the expenses towards education and maintenance of the minor son, Rs.6000/- has become too low. Tentative expenses for the minor son at present are admission and tuition fees for school – Rs.36,900/- for the academic year 2017-18, admission and tuition fees for school – Rs.33,700/- for the academic year 2018-19 upto September, 2018, conveyance (home to school) – Rs.2000/- per month, medical expenses for vaccination and others of minor son is Rs.3000/- per month. In view of the present market value, it is required to enhance the alimony pendente lite atleast Rs.12,000/- per month for minor son. Ld. Lawyer for the wife also submits that nothing has been claimed towards food and clothes for the minor child. So, it is required to direct the petitioner/husband to pay Rs.12,000/- per month.

Ld. Lawyer for the husband submits that husband is already paying Rs.6000/- per month towards alimony pendente lite for the child and as such, this petition is required to be rejected. In reply, Ld. Lawyer for the wife submits that the order of alimony pendente lite for the child was passed in the year 2015 and in the meantime, market price has been increased and the cost of education of the child has also been increased.

Heard both sides. Considering submissions of both sides and on perusal of the case record and the petition dt.06.08.2018, it appears that by the passage of time, factually market price of everything has increased and the child has grown up. It also cannot be denied that the cost of education and other cost relating to the son has been inflated. Moreover, no counter affidavit has been filed from the side of husband/petitioner. Therefore, I do not find any reason to disbelieve the fact stated in the petition dt.06.08.2018 supported by affidavit by the wife/O.P. Apart from this, it has been mentioned in the decision reported in AIR 1992 Orissa 88 (Laxmi Priya Rout Vs Kama Prasad Rout) that court has jurisdiction to revise its order granting interim maintenance and expenses of the proceeding to the wife during pendency of a proceeding under the Hindu Marriage Act. Accordingly, petition dt.06.08.2018 filed by O.P./wife praying for enhancement of the alimony pendente lite for the minor son is allowed. Petitioner/husband is directed to pay Rs.12,000/- per month towards alimony pendente lite for the minor child of the parties to

the suit in the hand of O.P./wife from the date of application (06.08.2018). Petitioner/husband is also directed to pay such amount by the 7th day of every succeeding month by cash or by cheque or by draft or by transfer to the bank account supplied by O.P./wife.

Another petition dt. 01.10.2018 filed by the husband/petitioner is taken up for hearing. Ld. Lawyer for the husband/petitioner submits that in C.O. No.1521/2016, Hon'ble High Court has been pleased to direct the Ld. District Judge, North 24 Parganas to expeditiously transmit all the records of the Matrimonial Suit No.63/2015 to the court of the Ld. District Judge, South 24 Parganas at Alipore who shall in turn transmit the same to the court of the Ld. Additional District Judge, 1st Court, Sealdah. Accordingly, this case record was transferred to the court of Ld. 1st Additional District Judge at Sealdah who transferred the case record before this court for trial. As the case record was transferred to the court of Ld. ADJ, 1st Court, Sealdah, it is necessary to transfer this case record to the court of Ld. ADJ, 1st Court, Sealdah.

Ld. Lawyer for the O.P./wife submits that he has nothing to say against the order of Ld. ADJ, 1st Court, Sealdah.

Heard both sides and considering submissions of both sides and on perusal of the case record and the petition dt.01.10.2018, it appears to me that this court being Additional District Judge has no jurisdiction to transfer any case record from one court to another court. Moreover, this case record was transferred by the Ld. ADJ, 1st Court, Sealdah by order dt.21.12.2017 and this court received the case record on 22.12.2017. Thereafter, on 01.02.2018 both parties appeared before this court. Since after appearing, stage of framing of issues has been passed and case record was already fixed for P.H. by order dt.14.03.2018. After lapse of about 10 months petitioner/husband filed the petition before this court who has no jurisdiction to transfer the case record. Accordingly, the petition dt.01.10.2018 is disposed of.

Fixing 11.03.2019 for P.H.

D/c by me

Additional Sessions Judge
2nd Court, Sealdah, South 24 Parganas

ASJ-2, Sealdah