

M. 47/2018 (Reg. No. 47/2018)

Order dt. 03-02-2024.

Both sides file respective hazira. Today is fixed for order in respect of interim maintenance. The record is taken up for passing order.

The petitioner has filed the instant case u/s. 125 of Cr.P.C and by the petition for interim maintenance he has prayed for interim maintenance from the O.Ps to the tune of Rs. 20000/- a month in total, inclusive of Rs. 10000/- each from O.P. nos. 1 and 2 stating inter alia that the O.Ps are the sons of the petitioner who is now sick and aged and unable to earn his livelihood. The O.Ps have not been providing any maintenance to him. The petitioner has no independent source of income. O.P. no. 1 who is elder son of the petitioner is an employee of Bandhan Bank, Sonarpur Branch and O.P. no. 2 who is the younger son of the petitioner is an employee of a private company in Kolkata. Both of them earn more than Rs. 50000/- a month.

The O.Ps have filed respective w/o against the application for maintenance and their objection against prayer for interim maintenance is also based upon the same. Both the O.Ps have denied the materials contentions of the petitioner save and except the relationship between the parties. The O.Ps have admitted that the petitioner is their father. According to the specific objection of O.P. no. 1 is that the petitioner left the mother of the O.Ps and conducted second marriage and he also begot one daughter out of his second marriage. The mother of the O.Ps got an order of maintenance against the petitioner from the Ld. Court at Diamond Harbour for herself and the O.Ps against the petitioner. Subsequent to their attaining majority, at present only the mother of the O.Ps is receiving maintenance allowance as per the said order. O.P. no. 1 earns his livelihood by imparting private tuition and also by working as a priest and he earns only Rs. 4000/- a month. On other hand, the petitioner is financially affluent. He has own dwelling house and landed property. He also has leased out some rooms of his house. He is also owner of a shop of electronics. He earns more than Rs. 50000/- a month. The O.P. no. 2 has also contended the same facts as that contended by O.P. no. 1 relating to the status of the petitioner. O.P. no. 2 has contended that he resides in a rented house and he somehow manages to earn his livelihood by working as a priest. He earns only Rs. 5000/- a month.

Both sides have filed respective affidavit of assets and liabilities in consonance with their respective pleading.

At this stage the real dispute relevant to the present proceeding cannot be decided. The disputed matters involved in the case relevant to the present proceeding are to be decided during trial upon evidence adduced by the parties. It appears from the copies of the documents filed by the parties that the petitioner got a lump sum amount from sale of his shop of electronics. It also appears from the copies of the documents that the petitioner has retained some landed property after making a gift to his wife. Considering the facts and circumstances as transpired from the materials on record, it appears that the petitioner cannot be held to be unable to maintain himself. Accordingly, at this stage I am not inclined to grant interim maintenance.

Hence, the prayer for interim maintenance is refused.

The petition for interim maintenance is disposed of accordingly on contest.

To 15-04-2024 for evidence of P.W.s.

Typed and printed by me.

Sd/-

A.C.J.M., Kakdwip.

Sd/-

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