



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.22849 of 2025

Meenakshi Hota

....

Petitioner

Mr. P.R. Chhatoi, Advocate

-versus-

Chinmay Hota

....

Opposite Party

CORAM: JUSTICE SANJAY KUMAR MISHRA

ORDER

20.08.2025

Order No.

01.

This matter is taken up through hybrid mode.

2. The present Writ Petition has been filed by the Petitioner-wife with the following prayers:

“PRAYER

In the above facts and circumstances, the petitioner, therefore, most humbly prays that your Lordship would be graciously pleased to admit the writ petition, issue notice to the opposite party and after hearing the counsel for the parties, this Hon'ble Court be further pleased **to direct the learned Judge, Family Court, Sambalpur for early disposal of LA. No.22 of 2024 (arising out of C.P. No. 144 of 2016) filed by the petitioner under Section 24 of Hindu Marriage Act, 1955 before proceeding with the main proceeding i.e. C.P. No. 144 of 2016 within a stipulated period;**

And/or pass such other order/direction as deem fit and proper in the fact and circumstances of the case;”

(Emphasis supplied)

3. The sole grievance of the Petitioner, who is the Opposite Party in C.P. No.144 of 2016, is that without



disposing of I.A. No.22 of 2024 filed by her under Section 24 of Hindu Marriage Act, 1955 for interim maintenance, the learned Judge, Family Court, Sambalpur is proceeding on merit in C.P. No.144 of 2016 preferred by the Opposite Party-Husband for divorce.

4. In view of such limited prayer made in the writ petition, to avoid further delay, the writ petition is taken up for hearing and disposal at the stage of admission without noticing the Opposite Party.

5. Learned Counsel for the Petitioner, drawing attention of this Court to the averments made in Para-7 of the writ petition so also the certified copy of the entire order sheet in C.P. No.144 of 2016, as at Annexure-3 submits, though the said I.A. was filed under Section 24 of the Hindu Marriage Act, 1955 for interim maintenance on 27.12.2024 and despite filing of objection to such application by the present Opposite Party, who is the Petitioner in C.P. No.144 of 2016, such application is still pending. On filing of affidavit evidence of P.W.1, the said witness has already been examined and documents have been marked as exhibits with objection on 28.07.2025. However, on oral prayer of the learned Counsel for the Petitioner, who represents her in C.P. No.144 of 2016, the matter stood adjourned to 5th August, 2025 and again stood adjourned to 19th August, 2025.

6. At this juncture, this Court deems it appropriate to refer to Section 24 of Hindu Marriage Act, 1955:

“Where in any proceedings under this Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support and the necessary expenses of the proceeding, it may, on the application of the



wife or the husband, order the respondent to pay to the petitioner the expenses of the proceeding, and monthly during the proceeding such sum as, having regard to the petitioner's own income and the income of the respondent, it may seem to the court to be reasonable:

Provided that the application for the payment of the expenses of the proceeding and such monthly sum during the proceeding shall, as far as possible, be disposed of within sixty days from the date of service of notice on the wife or the husband, as the case may be."

(Emphasis Supplied)

7. The Punjab and Haryana High Court in ***Mohinder Verma v. Sapna*** reported in 2014 SCC OnLine P&H 25147 held as follows:

"8. Section 24 of the Act empowers the matrimonial court to award maintenance pendente lite and also litigation expenses to a needy and indigent spouse so that the proceedings can be conducted without any hardship on his or her part. The proceedings under this section are summary in nature and confer a substantial right on the applicant during the pendency of the proceedings. Where this amount is not paid to the applicant, then the very object and purpose of this provision stands defeated. No doubt, remedy of execution of decree or order passed by the matrimonial court is available under Section 28-A of the Act, but the same would not be a bar to striking off the defence of the spouse who violates the interim order of maintenance and litigation expenses passed by the said court. In other words, the striking off the defence of the spouse not honouring the court's interim order is the instant relief to the needy one instead of waiting endlessly till its execution under Section 28-A of the Act. Where the spouse who is to pay maintenance fails to discharge the liability, the other spouse cannot be forced to adopt time consuming execution



proceedings for realising the amount. Court cannot be a mute spectator watching flagrant disobedience of the interim orders passed by it showing its helplessness in its instant implementation. It would, thus, be appropriate even in the absence of any specific provision to that effect in the Act, to strike off the defence of the erring spouse in exercise of its inherent power under Section 151 of the Code of Civil Procedure read with Section 21 of the Act rather than to leave the aggrieved party to seek its enforcement through execution as execution is a long and arduous procedure. Needless to say, the remedy under Section 28-A of the Act regarding execution of decree or interim order does not stand obliterated or extinguished by striking off the defence of the defaulting spouse. Thus, where the spouse who is directed to pay the maintenance and litigation expenses, the legal consequences for its non-payment are that the defence of the said spouse is liable to be struck off.”

(Emphasis Supplied)

8. The above-stated principles were subsequently affirmed by the Hon’ble Supreme Court in ***Rajnish v. Neha*** reported in (2021) 2 SCC 324, which comprehensively addressed various facets of maintenance law, including interim maintenance, overlapping jurisdictions, disclosure obligations, criteria for determining quantum, and enforcement mechanisms. The Supreme Court categorically upheld the view taken by the Punjab & Haryana High Court in *Mohinder Verma* (supra) as laying down the correct position of law.

9. Pertinently, the Supreme Court also framed comprehensive guidelines aimed at ensuring the timely disposal of interim maintenance applications. Para 72.10(j) of the said judgment mandates as follows:



“72.10. (j) The Family Court/District Court/Magistrate's Court concerned must make an endeavour to decide the IA for interim maintenance by a reasoned order, within a period of four to six months at the latest, after the Affidavits of Disclosure have been filed before the court.”

10. Regarding the enforcement of orders granting maintenance, in *Rajnish v. Neha* (supra), the Supreme Court held as follows:

114. Enforcement of the order of maintenance is the most challenging issue, which is encountered by the applicants. If maintenance is not paid in a timely manner, it defeats the very object of the social welfare legislation. Execution petitions usually remain pending for months, if not years, which completely nullifies the object of the law. The Bombay High Court in *Sushila Viresh Chhadva v. Viresh Nagshi Chhadva* [*Sushila Viresh Chhadva v. Viresh Nagshi Chhadva*, 1995 SCC OnLine Bom 315 : AIR 1996 Bom 94] held that : (SCC OnLine Bom para 7)

“7. ...The direction of interim alimony and expenses of litigation under Section 24 is one of urgency and it must be decided as soon as it is raised and ... the law takes care that nobody is disabled from prosecuting or defending the matrimonial case by starvation or lack of funds.”

“115. An application for execution of an order of maintenance can be filed under the following provisions:

“(a) Section 28-A of the Hindu Marriage Act, 1955 read with Section 18 of the Family Courts Act, 1984 and Order 21 Rule 94 CPC for executing an order passed under Section 24 of the Hindu Marriage Act (before the Family Court);

(b) Section 20(6) of the DV Act (before the Judicial Magistrate); and

(c) Section 128 CrPC before the Magistrate's Court.”

116. Section 18 of the Family Courts Act, 1984 provides that orders passed by the Family Court shall be executable in accordance with the CPC/CrPC.



117. Section 125(3) CrPC provides that if the party against whom the order of maintenance is passed fails to comply with the order of maintenance, the same shall be recovered in the manner as provided for fines, and the Magistrate may award sentence of imprisonment for a term which may extend to one month, or until payment, whichever is earlier.

118. Some Family Courts have passed orders for striking off the defence of the respondent in case of non-payment of maintenance, so as to facilitate speedy disposal of the maintenance petition. In *Kaushalya v. Mukesh Jain* [*Kaushalya v. Mukesh Jain*, (2020) 17 SCC 822 : 2019 SCC OnLine SC 1915], the Supreme Court allowed a Family Court to strike off the defence of the respondent, in case of non-payment of maintenance in accordance with the interim order passed.

132. For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under Section 28-A of the Hindu Marriage Act, 1955; Section 20(6) of the DV Act; and Section 128 of CrPC, as may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC, more particularly Sections 51, 55, 58, 60 read with Order 21.”

11. Hence, taking into consideration the submission made by the learned Counsel for the Petitioner, the order sheet on record, legal provisions enshrined under Section 24 of the Hindu Marriage Act, 1955 and the settled position of law, the learned Judge, Family Court, Sambalpur is directed to take up the hearing in I.A. No.22 of 2024 preferred under Section 24 of the Act, 1955 before proceeding further on merit in C.P. No.144 of 2016 and dispose of the said application within six weeks from the date of production of certified copy of this order.



12. It is made clear that unless and until the I.A. No.22 of 2024 stands disposed of and the Court below ensures compliance of the said order, if any, passed in favour of the Petitioner-wife, it shall not proceed further on merit in C.P. No.144 of 2016.

13. Accordingly, the writ petition stands disposed of.

14. Registry is directed to communicate a copy of this order to the learned Judge, Family Court, Sambalpur for compliance.

15. Urgent certified copy of this order be granted on proper application.

(S.K. MISHRA)
JUDGE

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Signature Not Verified
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Signed by: MONALISA SWAIN
Reason: Authentication
Location: High Court of Orissa
Date: 22-Aug-2025 14:49:36

