

13 03.4.2023

Ct-08

ar

FA 185 of 2022

with

I.A No. CAN 1 of 2022

CAN 3 of 2022

Saranjit Kaur (Hura)

Vs.

Inder Singh Hura

Mr. Uday Sankar Chattopadhyay

Mr. Suman Sankar Chattejee

Ms. Trisha Rakshit

Ms. Rajashree Tah

Ms. Ashadeep Karmakar

.... For the Appellant/Wife

Mr. Sarthak Chowdhury

Ms. Antara Das

... For the Respondent/Husband

In view of the order passed by the Hon'ble Supreme Court in Special Leave Petition no. 23599/2022 the respondent/applicant has filed the application for recalling the order dated 27.9.2022.

It appears from the order of the Hon'ble Supreme Court dated 2nd January, 2023 that the husband contended that he has already paid the amount due towards maintenance and if he is directed to pay the sum of Rs.20,000/-, as directed by us in our order dated 27.9.2022 it would be double payment for the same period. On the basis of such submission the Hon'ble Supreme Court disposed of the SLP with the following observation:-

"If that be the position, it would be open for the petitioner to place material before the High Court and seek for appropriate orders in modification of the impugned order.

With the said liberty, the petition stands dispose of.

Pending application(s), if any, shall stand disposed of.”

Mr. Sarthak Chowdhury, learned counsel appearing for the respondent/applicant, has produced before us a bank passbook of the husband to demonstrate for the periods for which the wife has claimed non-payment of maintenance has, in fact, been paid which has been reflected from the said passbook and the said passbook showing few entries reflect that a sum of Rs.9,000/- was debited for several months towards maintenance amount as directed by the trial court. Even if it is assumed that the applicant/husband has paid the maintenance amount in terms of the order of the trial court, the court has to decide whether in the facts and circumstances of the case the wife is entitled to enhancement of maintenance or not.

The respondent/applicant shall file an affidavit annexing the statement of accounts of Axis Bank, (Sen Raleigh Road) Branch, West APCAR Garden, Asansol-713304, from August 2022 to till date duly certified by the Manager, Axis Bank. It shall certify that a sum of Rs.9,000/- has been paid during the aforesaid period by debiting the amount from the respondent's account in favour of the wife, Saranjit Kaur(Hura). The said affidavit shall be filed upon prior service to the learned advocate on record for the appellant.

Time to file affidavit disclosing assets and liabilities by the respondent is extended for 10 days upon prior service to the learned advocate for the appellant Mr. Suman Sankar Chatterjee.

A copy of CAN 3 of 2022 shall also be served upon Mr. Chatterjee, learned advocate for the appellant, in course of the day.

Both the applications shall be listed after fortnight.

(Uday Kumar, J.)

(Soumen Sen, J.)