

16th June,
2025
(AK)
09

F.M.A.T 161 of 2025
IA No: CAN 1 of 2025

Rupa Bhattacharjee alias Rupa Adhikari
Vs.
Pijush Bhattacharjee

Mr. Sourav Sen
Ms. Adrisnata Chakraborty
...for the appellant.

1. The office has given a report as to the appeal being defective.
2. However, learned counsel for the appellant/wife clarifies that by the self-same judgment, the learned trial Judge was pleased to decree the suit for divorce filed by the respondent/husband and also to dismiss the appellant-wife's permanent alimony application under Section 25 of the Hindu Marriage Act, being Miscellaneous Case no.01 of 2019.
3. Whereas a separate regular first appeal has already been filed against the divorce decree, which is now pending in this court, the present miscellaneous appeal has been preferred only against the component of the impugned decision whereby the

permanent alimony application was dismissed, which is an appealable order.

4. We agree with such contention and accept the proposition that the present miscellaneous appeal is quite maintainable, being directed only against the component of the impugned order whereby the permanent alimony application of the appellant/wife under Section 25 of the Hindu Marriage Act was dismissed.
5. Accordingly, the defect pointed out by the office is deemed to stand cured.
6. We find a sufficiently strong *prima facie* case for admission of the appeal, since the learned trial Judge, while dismissing the permanent alimony application as a whole, failed to take into consideration the fact that the appellant/wife was already enjoying alimony *pendente lite* throughout the pendency of the suit.
7. The learned trial Judge also proceeded on the apparently erroneous premise that the prayer for permanent alimony of the appellant/wife was restricted to the cost of treatment of her Rheumatoid Arthritis, whereas the alimony

application sought both a right of residence as well as consequential payments along with permanent alimony for the daily living expenses of the appellant/wife as well.

8. The appeal is admitted and will be heard on the above questions as well as the other grounds taken in the Memorandum of Appeal.
9. The appellant shall serve a copy of CAN 1 of 2025 on the respondent indicating that the application shall be listed in the monthly combined list of cases for the month of July, 2025, when an affidavit-of-service to that effect shall be filed by the appellant/wife.
10. Since, till the disposal of the suit, the respondent was already paying alimony *pendente lite* to the appellant to the tune of Rs.5,000/- per month, we direct the respondent to go on paying an amount of Rs.5,000/- per month to the appellant/wife on an *ad hoc* basis till disposal of the present application.
11. It is made clear that such payment shall be without prejudice to the rights and contentions of either party in the final hearing of the application and the appeal.

12. The first of such monthly instalments shall be paid for the month of June, 2025 by June 30, 2025 and thereafter, by the last day of each succeeding month for each current month.
13. It is made clear that the above direction shall be subject to the outcome of the present application.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)