

Item- 29-07-2025  
3.

sg Ct. 16

**FAT 232 of 2025**  
**CAN 1 of 2025**  
**CAN 2 of 2025**

Sanchita Auddy  
Versus  
Sanjay Auddy

Mr. Rabindra Narayan Dutta  
Mr. Ardhendu Nag  
Mr. Koushik Bhattacharyya  
Mr. Sohom Banerjee

...for the appellant

1. The application for stay of operation of the impugned order along the application for alimony pendente lite is required to be heard in the presence of the respondent/husband.
2. Although, it is strenuously argued on behalf of the appellant that in view of the ratio of the judgment of the Hon'ble Division Bench in *Chitra Sengupta vs. Dhruva Jyoti Sengupta* reported in *AIR 1988 Calcutta 98* that as a matter of right, the wife is entitled to an order of injunction in exercise of inherent power of the court so that the wife did not suffer from mental agony and the legal wrangle and complication which the second marriage by the husband during the pendency of the appeal by the wife against the decree for divorce against her would cause to the wife. The said judgment has very carefully used the expression "if a proper case is made out therefor".
3. In the instant case, we are not inclined to pass any ex-parte ad interim order of injunction as the learned Counsel for the appellant has failed to substantiate the finding of the learned Trial Court with regard to inability of the wife to justify her

statement in paragraph 7 of her affidavit-in-chief. The original affidavit-in-chief is not before us and hence, we go by the recording of the impugned order and the legal inference drawn from such evidence of the learned Additional District Judge, Fast Track 3<sup>rd</sup> Court, Berhampore, Murshidabad.

4. We make it clear that these findings are prima facie.
5. The matter stands adjourned for **two weeks**.
6. An appropriate notice along with copies of applications for stay and alimony pendent lite, be served upon the respondent/husband by speed post with acknowledgment due and also in the email address mentioned in the cause title which is claimed to be the email address of the husband.
7. In addition to the aforesaid, copies of the stay application, application for alimony and the memorandum of appeal shall be served upon Mr. Pranab Kumar Das, Advocate who had represented the petitioner before the learned Additional District Judge 3<sup>rd</sup> Fast Track Court, Berhampore.
8. In the event the husband is not represented either physically or through his learned Advocate on the adjourned date, the application for stay and the application for alimony pendent lite may be heard in the absence of the husband.
9. Service shall be effected on or before 1<sup>st</sup> August, 2025.
10. An affidavit of service of service shall be filed on the adjourned date.
11. It appears that the department has made an incorrect recording with regard to the deficit court fees notwithstanding the fact that deficit court fee was paid on 22<sup>nd</sup> May, 2025.

12. The department is directed to forthwith refund the excess court fee paid on behalf of the appellant within one week from the date of communication of this order.

**(Soumen Sen, J.)**

**(Apurba Sinha Ray, J.)**