

HIGH COURT FORM NO.(J) 2
HEADING OF JUDGMENT IN ORIGINAL SUIT/CASE
IN THE COURT OF THE ADDL. DISTRICT JUDGE -
2(FTC), TINSUKIA

District : Tinsukia

Present : Sri B. Sutradhar, AJS,
Addl. District Judge-2(FTC),
Tinsukia.

Misc. (M) Case No. 15 of 2021
Arising out of T.S(M) 101 of 2021

On Wednesday, the 4th day of May, 2022

Sri Mridul Dey, (44 Yrs.),
S/o. Sri Jatindra Kumar Dey,
R/o. Hijuguri Rabindra Nagar,
Bahbari Gaon, P.O Hijuguri,
P.S.& Dist. – Tinsukia (Assam).

.....Petitioner.

Vs.

Sri Reshmi Rekha Dey Das (34 Yrs.),
D/o. Sri Chittaranjan Das,
W/o. Sri Mridul Dey,
R/o. New Colony, Near Puja Mandap,
P.S. & Dist. Tinsukia (Assam).

.....Respondent

This Petition for final hearing on 29.04.2022 in the presence of :

For the Petitioner : Sri S. Bhattacharjee, Advocate,

For the Respondent : Sri P. Roy, Advocate.

And having stood for consideration to this day the Court delivered the following Judgment.

J U D G M E N T

1. Here in this Petition, Smt. Reshmi Rekha Dey Das is the petitioner and Sri Mridul Dey is the respondent which has arisen out of T.S(M) 101 of 2021 where Sri Mridul Dey is the Petitioner and Smt. Reshmi Rekha Dey Das is the respondent.
2. This is a Petition of the petitioner under section 24 of the Hindu Marriage Act, 1955 wherein the petitioner has stated that the Respondent has initiated a Title Suit(M)101/2021 under Section 13(1)(ia) of Hindu Marriage Act, 1955 against her and Respondent has filed his written Statement.
3. The fact of the case has been elaborately detailed by the Petitioner in her Written Statement filed in the case and the Respondent has prayed for dismissing the suit of the petitioner with cost alongwith giving other reason for rejecting the

prayer for allowing the decree of divorce against the respondent.

4. The respondent and petitioner entered into wedlock on 09.07.2011. That on 27.07.2021 after forcibly outset by the Respondent and his family members, the Petitioner became bound to take shelter in her parents' house at New Colony, Near Puja Mandap, P.S. & Dist. Tinsukia (Assam) alongwith her 6 years daughter and since then she has been residing with her minor daughter and fully dependent for her and her daughter's Maintenance as well as day to day requirements on her parents.

5. Thereafter the Petitioner has filed a Domestic Violence vide Misc. Domestic Violence Case no. 23 of 2021 pending in the Court of Ld. Sub-Divisional Judicial Magistrate at Tinsukia against the Respondent and his family members for inflicting and causing domestic violence upon the Petitioner. In the said D.V case, the Petitioner was granted with an interim Maintenance of Rs. 3000/- per month commencing from the month of October, 2021. Thereafter the Petitioner has filed this Divorce suit against the respondent for granting of divorce against her and thus the petitioner is involved in two cases and a sum of Rs. 3000/- is not sufficient for her and daughter

and she is not in a position to spend extra amount for contesting in the above two suits at a time.

6. That the Respondent is a sound businessman having a grocery shop at Hijuguri Gate no. 1 near Ram Thakur Mandir and he earns Rs. 60,000/- monthly. Besides the grocery shop, the Respondent has other various sources of income from his side business, viz, opening of Fixed Deposit/accounts/R.D account in Post Office and thus he earns an amount of Rs. 10,000/- . Moreover, the Respondent has no other burden of looking any other member in the family as all his brothers are railway employees. The Respondent has also no other additional burden and he is in a position to bear the expenses of the Petitioner and her daughter.
7. For the said reason, the Petitioner has prayed for awarding Pendente lite Maintenance allowance of Rs. 15,000/- per month.
8. Also seen an Objection petition filed on behalf of the Opp. Party stating that the instant petition is not maintainable in law and in facts. That, the statements made in the instant petition are deemed to be denied and disputed by the answering opposite party save and except those which are specifically admitted in this written

objection. That the Statement made in para no. 4 of the petition so far its relates to filing of Misc. D.V Case no. 23/2021, pending in the court of Sub-Divisional Judicial Magistrate, Tinsukia is only admitted, but the answering Opposite Party strongly denied and dispute the statement that, the Opposite Party and his family members inflicted and caused domestic violence upon the petitioner and requires the petitioner to proof the same in due legal manner. That apart regarding the statement that the respondent i.e the present petitioner is getting interim maintenance of Rs. 3000/- per month which commence from the month of October, 2021 though correct, but the petitioner concealed the subsequent development of the case vide order dated 13/12/2021 passed by the Ld. SDJM, Tinsukia passed in Misc. D.V case no. 23/2021. That the statement made in para no. 5 of the petition is averted with an intention to gain sympathy of the Court and the answering Opp. Party strongly denied the disputed the contention put forwarded therein and requires the petitioner to proof the same in due legal manner. That, That the statement made in para no. 6 of the petition are false, fabricated and concocted, as such strongly denied and disputed the by answering opposite party, as such put the petitioner to the strictest proof thereof. That the answering Opposite Party in a nutshell submits

that, in pursuance of the orders of Ld. S.D.J.M(Sadar), Tinsukia passed in Misc. D.V case no. 23/2021 the opposite party is making payment of Rs. 4000/- per month in favour of the petitioner. That apart, the petitioner is a postal agent and therefrom she earns Rs. 1550/- per month as per her own admission. Moreover, the Opposite Party is a petty businessman and somehow maintaining himself and out of his meager income he is regularly making the payment of Rs. 4000/- in favour of the petitioner. Under the circumstances since the Opposite Party is making payment in favour of the petitioner so the instant petition cannot be allowed and is liable to be rejected. It is therefore prayed that the court may be pleased to reject the instant petition.

9. The Ld. Advocate appeared for the petitioner stated that though she is getting Rs. 3000/- but that is not sufficient to maintain her and her daughter, whereas the respondent of this case is having sufficient means. It is also stated that the Petitioner has no personal income and a lump sum amount may also be helpful to maintain her family. Though the Petitioner stated that Respondent is earning Rs. 60,000/- but no effective evidence has been adduced by the Respondent to that effect rather, he has been

paying Rs. 4000/- p.m to the petitioner.

10. Keeping note of the entire facts and circumstances, I am of the opinion that an amount may be awarded as Pendent elite. Accordingly, the Respondent, Sri Mridul Dey is directed to pay Rs. 3000/- per month to the Petitioner as monthly maintenance allowance till disposal of the original Divorce suit (T.S.(M) 101/2021). As the Respondent is already paying Rs. 4000/-, and this court has already ordered further payment of Rs. 3000/- p.m, I find no reason to pass any effective order in respect of another prayer of awarding expenses of the suit.

11. The Petition is disposed of, on contest without cost.

Given under my hand and seal of this Court on this the 04th day of May, 2022.

Dictated and corrected by me.

(B. Sutradhar)
Addl. District Judge-2(FTC),
Tinsukia.

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Tinsukia