

GAHC010019122024



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

Case No. : CRP(IO)/57/2024

PROTIM SHYAM

S/O- LATE PUNESWAR SHYAM, PRESENTLY RESIDING NEAR CHUNPURA PETROL PUMP, C/O- SRI KHAGEN PATOR, P.O. SIMALUGURI, DIST. SIVASAGAR, ASSAM, PIN- 785686 AND PERMANENT RESIDENT OF BALIJAN SHYAM GOAN, P.O. KHARIKATIA, PS. TITABOR, DIST. JORHAT, PIN- 785633, ASSAM

VERSUS

DIPIKA SHYAM

W/O- SRI PROTIM SHYAM, R/O- ONGC COLONY, QUARTER NO. B-109, P.O., P.S. AND DIST. SIVASAGAR, PIN- 785640, ASSAM

Advocate for the Petitioner : MR. S DASGUPTA, MR. I A TALUKDAR

Advocate for the Respondent : MR. S N TAMULI , MS. A BEGUM

**BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN**

ORDER

23.09.2024

Heard Mr. S. Dasgupta, learned counsel for the petitioner and also heard Mr. S.N. Tamuli, learned counsel for the sole respondent.

2. In this petition under Article 227 of the Constitution of India, the petitioner has put to challenge the order dated 30.10.2023 passed by the learned Additional District Judge, Sivasagar, in Title Suit(M) No.24/2018. It is to be noted here that vide impugned order dated 30.10.2023, the learned Additional District Judge, Sivasagar, has directed the (i) Executive Director/Asset Manager, ONGC, Assam Asset, Nazira, (ii) Chief General Manager/Head (HR-ER) ONGC, Assam Asset, Nazira, and (iii) Head Drilling Services, ONGC Assam Asset, Sivasagar, to arrange to disburse 50% amount of the retirement benefit of the petitioner to the respondent, the wife of the petitioner and further directed to pay monthly maintenance allowance @ Rs.30,000/- to the respondent, as agreed by both the parties to the said proceeding.

3. Mr. Dasgupta, learned counsel for the petitioner submits that the petitioner was serving in the ONGC and he had already retired from service and after his retirement, his entire pensionary benefit is held up by the authority and therefore, he even could not pay the monthly maintenance of the respondent @ Rs.30,000/- per month. However, Mr. Dasgupta submits that the petitioner is ready to pay maintenance amount to the respondent and he has been paying the said amount, but on account of his retirement from service and on account of the pensionary benefit being held up by the authority, he could not arrange the maintenance amount to be paid to the respondent and therefore, Mr. Dasgupta submits that the impugned order being illegal and arbitrary be set aside and quashed.

4. On the other hand, Mr. Tamuli, learned counsel for the respondent submits that the respondent has not been paid the monthly maintenance by the petitioner. However, Mr. Tamuli submits that the petitioner has already retired from service and as per direction of the learned Additional District Judge, Sivasagar, 50% of the retirement benefit of the petitioner was supposed to be held up by the authority, but the said order has been stayed by this Court vide order dated 12.02.2024, despite the appointing authority of the petitioner refused to release the pensionary benefit of the petitioner and that the Title Suit(M) No.24/2018 under Section 13(1) of the Hindu Marriage Act is still pending before the learned Trial Court and in the said proceeding, the respondent had filed a petition to

held up 70% of the retirement benefit of the petitioner and thereafter, hearing both the parties, the learned Trial Court has ordered the ONGC authority to disburse 50% of the retirement benefit to the petitioner.

5. Mr. Tamuli further submits that if the entire retirement benefit is released to the petitioner, then the petitioner will not pay maintenance to the respondent and therefore, Mr. Tamuli contended that 50% retirement benefit of the petitioner may not be released at this stage.

6. In reply, Mr. Dasgupta submits that at least 50% of the retirement benefit of the petitioner may be released and the remaining 50% may be retained till disposal of the Title Suit (M) No.24/2018, and this CRP and also the I.A. may accordingly be disposed of.

7. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the impugned order dated 30.10.2023.

8. It appears that the petitioner was serving in the ONGC and he retired in the month of May, 2024. Further, it appears that vide impugned order, dated 30.10.2023, the learned Trial Court, on the petition preferred by the respondent, has directed the ONGC authority to held up 50% of the retirement benefit of the petitioner. Further, the learned Trial Court has directed that the matter of payment of monthly maintenance allowance @ Rs.30,000/- per month shall be considered by the ONGC authority in accordance with law.

9. In the given factual background and also in view of the submission of learned Advocates of both the parties and as agreed, this Court is inclined to dispose of this civil revision petition by directing the (i) Executive Director/Asset Manager, ONGC, Assam Asset, Nazira, (ii) Chief General Manager/Head (HR-ER) ONGC, Assam Asset, Nazira, and (iii) Head Drilling Services, ONGC Assam Asset, Sivasagar, to release 50% of the retirement benefit in favour of the present petitioner and to held up the remaining 50%, till disposal of the Title Suit(M) No.24/2018. It is further provided that the ONGC authority shall continue to pay Rs.30,000/- per month being the monthly maintenance allowance to

the respondent, until further order passed by the learned Additional District Judge, Sivasagar, in Title Suit (M) No.24/2018, from the 50% of the amount being directed to be held up herein above.

**Sd/- Robin Phukan
JUDGE**

Comparing Assistant