

HIGH COURT OF SIKKIM : GANGTOK
Record of Proceedings

Mat. App. No. 01/2024

MRS. MOHMUDA KHATOON & ANR.

APPELLANT (S)

VERSUS

MR. MD. ASIF

RESPONDENT (S)

For Appellant : Mr. Ranjit Prasad, Legal Aid Counsel.

Date: 28/05/2024**CORAM:**

HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE
HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

...

JUDGMENT : (per the Hon'ble, the Chief Justice)

This is an appeal under section 19(1) of the Family Courts Act, 1984, in respect of an order dated 27th February, 2024, passed by the learned Judge of the Family Court, Sikkim, situated at Gangtok, Sikkim, in Family Court (Crl.) Case No.59 of 2023. By the impugned order, the learned Court decided finally an application filed by the petitioners (being the appellants herein) claiming maintenance from the respondent under section 125 of the Code of Criminal Procedure, 1973.

In view of the discussions as contained in the impugned order dated 27th February, 2024, the learned Judge proceeded to issue the following directions, as stated in paragraph 19 of the impugned order:-

"19. Consequently, in view of the above facts and circumstances, discussions, observations and findings, it would be just and proper if the respondent is directed to pay a sum of ₹4,000/- (*Rupees four thousand*) only per month towards the monthly maintenance of the petitioners. Therefore, I hereby direct that the respondent shall pay a sum of ₹4,000/- (*Rupees four thousand*) only per month towards the monthly maintenance of the petitioners from the month of March, 2024."

The reasons for assailing the impugned order are stated in the "Grounds" as contained under paragraph 3 of the application filed before us. One of the

HIGH COURT OF SIKKIM : GANGTOK
Record of Proceedings

grounds that have been put forward by the appellants before us reads as follows:-

"3.

- (iii) For that the appellant no.1 has already exhibited Document-B which is an agreement wherein the respondent agreed to pay Rs. 5000/- (Rupees five thousand) per month as monthly allowance to the appellants which however was never paid and the said document has not been shaken in her cross-examination.

....."

On a query from this Bench as to why this document was not marked as an "Exhibit" before the learned Court, we are informed that this was not an original document but a photocopy and as such, it was not marked as an "Exhibit". In such circumstances, we cannot fault the learned Judge for not taking cognizance of a document which was not marked as an "Exhibit". That apart, the learned Judge took various factors into consideration before finally deciding on the question of monthly maintenance to be paid by the respondent. In any event, upon a careful perusal of the impugned order dated 27th February, 2024, we notice that the same is supported with cogent and justifiable reasons.

In such circumstances, we do not find any plausible reason to interfere with the order dated 27th February, 2024, passed by the learned Family Court in Family Court (Crl.) Case No.59 of 2023.

The Matrimonial Appeal stands disposed of accordingly.

(Meenakshi Madan Rai)
Judge

(Biswanath Somadder)
Chief Justice