In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
And
The Hon'ble Mr. Justice Biswaroop Chowdhury

FMA 1161 of 2025
with
CAN 1 of 2025

BISWAJIT ROOJ @ BISWAJIT RUJ
VS.
SAMARPITA (NAG) ROOJ & ANR.

For the appellant	:	Mr. Pratip Kumar Chatterjee, Snr. Adv. Ms. Chittapriya Ghosh Mr. Kuntal Roy Ms. Priyanka Saha Ms. Maimaya Chatterjee
For the respondents	:	Mr. Siddhartha Sankar Mondal Mr. Tirtha Pati Acharyya
Heard on	:	05.02.2026
Judgment on	:	05.02.2026

Sabyasachi Bhattacharyya, J.:-

1. Affidavit of service filed today be kept on record.

2. In view of the short question involved, the appeal itself is taken up for adjudication along with the connected application.

3. By the judgment and decree impugned in the appeal, a divorce decree was granted in favour of the appellant/husband against the

respondent no. 1/wife and, simultaneously, permanent alimony of Rs. 8,000/- per month was also directed to be paid by the appellant to the respondent no. 1/wife.

4. The present appeal has been preferred against the portion of the impugned decree whereby permanent alimony was granted to the respondent no.1/wife.

5. Learned senior counsel appearing for the appellant submits that even without any application being made by the respondent no.1/wife, such permanent alimony was granted, which is *de hors* the law.

6. Learned counsel for the respondent no.1/wife submits that the appellant has not been paying any alimony to the respondent no.1.

7. Upon a consideration of the submissions of the parties and perusal of the impugned judgment, we find that by the impugned judgment and decree, a divorce decree was granted in favour of the appellant/husband as well as permanent alimony to the tune of Rs.8,000/- per month was directed to be paid by the appellant to the respondent no.1/wife.

8. The appellant is justified in contending that the learned Trial Judge acted without jurisdiction and *de hors* the law in granting permanent alimony *suo motu* without there even being any application on the part of the respondent no.1/wife making such prayer, let alone giving any

opportunity to the parties to make submissions on such count and lead evidence to that effect.

9. Since the present appeal is confined to the grant of permanent alimony, we are not going into the divorce component of the impugned decree.

10. Learned counsel for the respondent no.1/wife submits that an appeal has already been preferred against the divorce component of the impugned decree.We make it clear that we have not gone into the merits of such part of the decree but confine ourselves in the present appeal only to the permanent alimony granted to the respondent no.1/wife. It will be open to the respondent no.1/wife to proceed with her appeal, if any, against the divorce decree, independently of the present adjudication.

11. In view of the above discussions, FMA 1161 of 2025 is allowed, thereby setting aside the portion of the impugned judgment and decree dated June 29, 2019 passed by the learned Additional District Judge, First Court at Suri, District – Birbhum in Matrimonial Suit no.256 of 2007 to the extent that permanent alimony of Rs.8,000/- was directed to be paid by the appellant/husband to the respondent no.1/wife.

12. However, nothing in this order shall preclude the respondent no.1/wife to file an appropriate permanent alimony application and/or

an application for interim alimony in connection with any appeal, if filed against the divorce decree. If such an application is filed, it will be open to the concerned Court to decide the same, upon giving adequate opportunity to the appellant/husband to controvert the same by way of written objection and in accordance with law, without being influenced in any manner by any of the observations made above.

13. CAN 1 of 2025 is also disposed of consequentially.

14. There shall be no order as to costs.

15. Parties shall act on the basis of server copy of this order, duly downloaded from the official website of this Court.

16. Urgent Photostat certified copies of this order, if applied for, be supplied to the parties expeditiously upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Biswaroop Chowdhury, J.)

05.02.2026
Item no. DL 35
Court No. 16
Asraf, A.R.(Ct.)