

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.111 of 2024

Smt. Madhuri Chakraborty, W/o Sri Biswajit Chakraborty, D/o Sri Manik Chakraborty, R/o Village- SBC Nagar, Garage Tilla, P.O. & P.S – Belonia, District – South Tripura.

..... Petitioner(s).

V E R S U S

Sri Biswajit Chakraborty, S/o Sri Ratan Chakraborty, R/o – Kamala Joth, P.O. & P.S. – Sabroom, District – South Tripura.

..... Respondent(s).

For Petitioner(s)	: Mr. Purusuttam Roy Barman, Sr. Advocate, Mr. Samarjit Bhattacharjee, Advocate.
For Respondent(s)	: Ms. Rajashree Purkayastha, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

19/02/2025

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel for the petitioner and Ms. Rajashree Purkayastha, learned counsel for the respondent.

The petitioner-wife was debarred from filing written statement and the case was ordered to proceed ex-parte vide impugned order dated 24.02.2023. Thereafter, the petitioner filed an application for review of the said order which has been rejected by impugned order dated 07.11.2024. Meanwhile, reconciliation between the parties had failed.

Mr. P. Roy Barman, learned senior counsel for the petitioner submits that the case is at the stage of cross-examination of plaintiff witnesses. Petitioner would be adversely affected if opportunity to contest the charges made in TS(Div) No.44 of 2022 is not allowed. The divorce case has been filed on ground of desertion. Therefore, the petitioner has approached this Court for relief.

Ms. Rajashree Purkayastha, learned counsel for the respondent submits that the course of the proceedings would show that despite service of summons, the petitioner-wife did not file written statement for three consecutive dates leading to the order of debarment. Thereafter, the suit has progressed to considerable extent. It is at the stage of cross-examination of plaintiff witnesses. Therefore, such an opportunity be not granted in favour of a non-diligent party.

I have considered the submissions of the learned counsel for the parties and taken note of the relevant materials placed from records. On consideration of the rival submissions of the parties, the suit being matrimonial in nature between two spouses on a plea of divorce based on grounds of desertion, interest of justice would be better served if the defendant petitioner is allowed an opportunity to file a written statement to contest the suit though she appears to be non-diligent after receipt of summons in filing the written statement in time. The allegations and charges in matrimonial suit are such which if not properly rebutted may also inhibit the learned Family Court to arrive at a comprehensive adjudication of the real controversy between the spouses. In such circumstances, this Court feels it proper to allow the application and permit the defendant petitioner-wife to file a written statement within a period of two weeks from today subject to payment of cost of Rs.7,500/- in favour of the respondent herein on the next date.

It is open for the learned trial Court to consider any request for additional evidence on behalf of the respondent-husband upon filing of such written statement.

Impugned order dated 24.02.2023 and 07.11.2024 are set aside.

Accordingly, the instant petition is disposed of. Pending application(s) if any, shall also stand disposed of.

(APARESH KUMAR SINGH), CJ

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