

18.01.2021
Court No. 19
Item No.10
CP

C.O. 58 of 2021

Sarika Saha
vs.
Ranji Saha

(via video conference)

Mr. Aniruddha Chatterjee
Mr. Saptarshi Kumar Mal

....for the petitioner.

Mr. Saptangshu Basu, Sr. Adv.
Mr. Debanjan Mukherjee
Mr. Joyjit Roy Choudhury
Mr. Rohit Choudhury

.....for the respondent.

This revisional application has been filed by the wife in Matrimonial Suit No. 175 of 2013, pending before the learned Additional District Judge, 6th Court at Alipore, 24-Parganas (South), being aggrieved by the order dated November 17, 2020. The learned court below rejected the application under Order 7 Rule 11(a) filed by the wife praying for rejection of the plaint on the ground that the plaint did not disclose any cause of action.

The contention of the wife is that the suit has been filed without a specific averment as to whether the marriage was solemnized as a Hindu marriage and, thereafter registered under the Hindu Marriage Act or whether the marriage was under the provisions of the Special Marriage Act. According to

Mr. Chatterjee, the defence of the wife would be on the basis of such disclosure, as in case of a marriage under the Hindu Marriage Act, the rules to be applied would be different.

Mr. Basu, learned senior advocate appearing on behalf of the husband, submits that in the first paragraph of the petition it has been categorically mentioned that the marriage was solemnized under the Hindu rites, rituals and customs and, as such, a reading of the petition for divorce as a whole would disclose that the marriage was solemnized under the Hindu rites, as such, the same may be treated as a marriage under the Hindu Marriage Act.

I have gone through the plaint and I find that a total reading of the petition for divorce would disclose that the application for divorce was filed by the husband under the provisions of the Hindu Marriage Act and the averments made therein disclose that the marriage between the parties was as per Hindu rites and customs.

If at the time of trial such assertion of the husband is found to be incorrect, then the consequences will be suffered by the husband.

On a plain reading of the petition, I find that the contention of Mr. Chatterjee that the petition should be rejected as it did not disclose any cause of action for filing a suit for dissolution of marriage is not correct. The truth and veracity of the statements

made by the husband against the wife are matters to be decided at the trial upon evidence and all points are left open for the learned Trial Judge to decide.

The revisional application is dismissed. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)