

19.08.2021
(S/L-08)
Ct.-18
(Susanta)

(Via Video Conference)
C.O. 1000 of 2020

Mr. Rajeswar Datta
-Vs-
Mrs. Moumita Datta (Nee Roy)

Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal,
..... For the Petitioner.

Affidavits-of-service filed on behalf of the petitioner be kept with the record.

None appears on behalf of the opposite party in spite of service.

The present application under Article 227 of the Constitution of India is at the instance of the husband/respondent in a suit filed by the wife/opposite party seeking dissolution of marriage between the parties by a decree of divorce.

The said suit being Matrimonial Suit No. 24 of 2016 is pending disposal before the Additional District Judge, Fast Track Court-III, Barrackpore, 24-Parganas (North).

The learned Trial judge by the order impugned being order No. 23 dated January 04, 2020 has dismissed an application filed by the petitioner seeking access to the minor daughter of the parties who is now in the custody of the opposite party.

Delayed approach is the ground on which the prayer of the petitioner was refused. No doubt it is expected that a caring father should act promptly where he is interested to get access to his child but it is not the sole criteria on which the prayer of the father can be denied inasmuch as like the mother, the care of father is also equally needed for the proper upbringing of the child.

The said issue since has not been addressed while deciding the application of the petitioner under Section 38 of the Special Marriage Act, 1954, it requires further consideration.

The order impugned, for the aforesaid reason, is set aside.

The learned Trial Judge is directed to decide the said application afresh. The said application since by its nature demands early consideration, the learned Trial Judge is requested to make all endeavour to dispose it of expeditiously, preferably before the ensuing Puja Vacation of the Court.

C.O. 1000 of 2020 is thus disposed of with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)