

07.01.2021
Sl. No. 3
srm

C.O. No. 1053 of 2020
Soumya Chatterjee
Vs.
Priyanka Das (Chatterjee)

Mr. Jayuanta Narayan Chatterjee,
Ms. Paramita Mukhopadhyay,
Mr. Debashis Banerjee,
Mr. Nazir Ahmed,
Mr. Supreem Naskar,
Ms. Jayasree Patra,
Ms. Swagata Das

...for the Petitioner.

This revisional application has been filed by the father of a minor child being aggrieved by an order dated February 24, 2020 passed in Misc. Case No.310 of 2019 by the learned Additional District Judge, Fast Track 3rd Court, Barasat, North 24-Parganas, arising out of Matrimonial Suit No.2554 of 2018 filed by the petitioner/husband for dissolution of marriage.

The opposite party/mother filed an application under Section 38 of the Special Marriage Act, 1954 for custody of the child. The said application was registered as Misc. Case No.310 of 2019. Misc. Case No.310 of 2019 was disposed of allowing the application under Section 38 of the Special Marriage Act. Under Section 39 of sub-section (2) of the Special Marriage Act, orders made by the Court in any proceeding under Section 38 were appealable orders unless they were interim orders. Although in this order an interim custody was given to the

mother yet by the order impugned the Misc. Case and the entire application under Section 38 of the Special Marriage Act was disposed of which amounts to a final order. The order impugned is an appealable order.

The petitioner is at liberty to prefer an appeal before the learned Court below in accordance with law.

Therefore, the revisional application cannot be entertained as not maintainable and thus dismissed.

The learned Advocate-on-record for the petitioner is at liberty to take back the certified copy of the order impugned upon furnishing a photocopy thereof

There will be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)