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22.07.2021
TN

CO No.1053 of 2021

Pranjal Basak
Vs.
Rumela Khatun

(Via video conference)

Mr. Jayanta Samanta

.... for the petitioner

None appears for the opposite party at the time of call, although the petitioner is represented through counsel.

Affidavit-of-service filed in court today be kept on record, along with two connected papers showing recent development in respect of the track report of service.

It is evident from such report that the item, although dispatched at the address of the opposite party as given in the court below, was returned to the petitioner.

It is pointed out by learned counsel for the petitioner, by placing reliance on Order No.8 dated March 25, 2021 passed in the suit, that although the service had been refused at one of the addresses of the

opposite party to which notice of the suit was sent, the trial court again directed the plaintiff/petitioner to take fresh steps for service.

However, it appears from the records as well as the affidavit-of-service filed today that the opposite party is deliberately avoiding service in respect of the suit as well as the revisional application.

It is clear from the order dated March 25, 2021 passed by the court below that the envelope returned with the endorsement “refused” from one of the addresses of the opposite party, which amounts to good service in law.

Hence, there cannot be any further impediment to proceed with the suit *ex parte* without directing any further notice to be served on the defendant/opposite party.

Accordingly, CO No.1053 of 2021 is allowed, thereby setting aside Order No.8 dated March 25, 2021 and directing the Additional District and Sessions Judge, Fast Track Court at Balurghat, District: Dakshin Dinajpur to proceed with the hearing of Matrimonial Suit No.58 of 2020 pending in the said court *ex parte* and to dispose of the same as expeditiously as the business of the said court permits, preferably within six months from the date of communication of this order to the court below.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)