

03
18.08.2021
TN

CO No.1326 of 2021

Debasish Chaudhury
Vs.
Dr. Leena Sarkar

Mr. Narayan Chandra Ghosh,
Mr. Falguni Bandyopadhyay

.... for the petitioner

Dr. Leena Sarkar

.... opposite party (in person)

Affidavit-of-service filed in court today be kept
on record.

The limited challenge in the present revisional
application is that the trial court refused to decide on
the specific objection taken by the
defendant/petitioner as regards the affidavit of
examination-in-chief filed by the plaintiff/opposite
party containing statements beyond the pleadings in
the plaint.

Learned counsel for the petitioner argues that
since elaborate portions of the examination-in-chief
are beyond the scope of the pleadings, the
defendant/petitioner would be unnecessarily

subjected to prolonged litigation by cross-examining on irrelevant points taken in the evidence, alternatively to take the risk of omitting to so cross-examine, which may put the defendant at the peril of non-traverse at the time of final hearing.

The opposite party appearing in person contends that the evidence adduced is within the scope of the pleadings of both the parties.

It appears from the objection filed by the revisionist-petitioner that it contains elaborate expositions as to the differences between the evidence and the plaint. However, in the event the trial court is directed to consider whether such evidence will go on the record and/or would be required to be expunged and/or the evidentiary value thereof considered at this stage, it would involve a premature mini-trial, which would unnecessarily prolong the matrimonial suit.

It is seen from the impugned order that the trial court was justified in observing that the objection taken by the petitioner in the revisional application shall be decided at the final stage of the suit.

In such view of the matter, since the trial court, in the impugned order, has specifically recorded the objection of the defendant/petitioner and kept the issue open, to be decided at the final stage of the suit, no interference is necessary with the impugned order.

Accordingly, CO No.1326 of 2021 is disposed of without interfering with the impugned order in the light of the observations made above.

In view of the long pendency of the suit, the trial court is requested to dispose of the suit as well as connected application(s), if any, as expeditiously as possible, preferably within one year 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.)