

13.12.2021

Ct. 21

D/L 94

AKG

C.O. 1807 of 2021
(Via Video Conference)

Monalisa Roy Choudhury
-Vs-
Indranil Choudhury alias Choton.

Mr. Saikat Basu
Mr. Pratik Samajpati

... for the petitioner

Mr. Partha Pratim Roy
Mr. S. Sanyal

... for the opposite party

Learned Advocates for the parties are present.

The petitioner files affidavit of service.

This revisional application is directed against the order passed by Additional District Judge, 5th Court, Purba Bardhaman in MAT. Suit No. 93 of 2019 on 08.02.2021 and whereby the Learned Court below was pleased to dismiss the case for non-prosecution as petitioner No.1 was found absent.

It has been submitted by learned advocates for both sides that the parties have filed an application under section 28 of the Special Marriage Act, 1954 for dissolution of their marriage on mutual consent. The parties are still willing to go for mutual consent divorce and therefore pray the revisional application may be allowed and let the original suit be restored to its file and number.

Since both parties still want to get their marriage dissolve by mutual consent, therefore the order impugned is hereby set aside. That apart the order impugned is totally silent due to whose fault the case could not be disposed of within a year of the filing. This Court is also not unmindful to the facts that during Covid-19 pandemic normal life had come to stand still

and people were hesitant to venture out of their house. The Courts in Bengal were also not functioning in normal manner. I find the Court below has failed to take into consideration such facts and appears to have dismissed the case for non- prosecution.

Learned Court below is directed to restore the case to its file and number. The parties are directed to appear before the Learned Court below on 3rd of January, 2022 and file their evidence on affidavit and if they fail to do so the learned court below will be at liberty to proceed with the case in accordance with law and pass necessary order.

Accordingly, the revisional application being **C.O.1807 of 2021** is disposed of.

Interim order, if any, stands discharged.

There shall be no order as to costs.

Parties are to act on the server copy of this order duly downloaded from the official website of this Court.

(**Kesang Doma Bhutia, J.**)