

22.03.2021
Court No. 19
Item No.01
CP

C.O. 4325 of 2019

Arati Panda alias Arati Samanta
vs.
Biswajit Samanta

(via video conference)

Mr. Shayak Chakraborty

.....for the petitioner.

Mr. Aniruddha Chatterjee
Mr. Syed Nurul Arefin
Mr. Masud Manik

...for the opposite party.

This revisional application has been filed challenging an order dated November 19, 2019, passed by the learned Civil Judge (Junior Division), 1st Court, Contai in O. S. No. 143 of 2016.

By the order impugned, the learned court below allowed an application under Section 151 of the CPC dated July 8, 2019 filed by the husband and held that the vakalatnama as well as the written statement filed by the petitioner in the name of Arati Panda @ Arati Samanta, wife of Biswajit Samanta, dated June 19, 2019 would not be taken into consideration.

Aggrieved, the petitioner/wife has filed this revisional application on the ground that the learned court below prevented the petitioner from contesting

the suit by passing the impugned order. The revisional application was admitted for hearing and an order of stay of all further proceedings in the suit was passed. The opposite party/husband filed a vacating application by annexing certain documents in order to show that after the order impugned was passed by the learned court below, the wife herself filed an application for a permission to contest the suit as Arati Panda and file the written statement and written objection. Such application of the wife was allowed by the learned court below by an order dated January 24, 2020 and there is no challenge to the said order.

Mr. Chatterjee, learned advocate appearing on behalf of the opposite party, submits that once the wife herself appeared in the suit and willingly expressed her desire to contest the suit in the name of Arati Panda and file her written statement and written objection as Arati Panda, she cannot now turn around and pray before this court to be allowed to contest the suit in the name of Arati Panda @ Arati Samanta, wife of Biswajit Samanta. It is further submitted that the order allowing the petitioner to contest in the name of Arati Panda was passed subsequent to the order impugned before this court.

I have gone through the records and I find that the petitioner had already filed an application before

the court to be allowed to contest the suit as Arati Panda. Moreover, the written statement and written objection have also been permitted to be filed in the name of Arati Panda/petitioner herein.

Whether the petitioner contests the suit as Arati Panda or Arati Samanta, the ultimate decision in the suit will be on evidence and pleadings of the parties, upon trial. The suit is one for declaration that Arati Panda was not the legally married wife of Biswajit Samanta. Whether Arati Panda uses the surname Panda or Samanta, the same will neither affect the merits of the suit, nor will she lose her status as a wife.

Thus, I do not find any reason to allow the revisional application. The claim of the petitioner as legally married wife of the opposite party and the contrary claim of the opposite party that the petitioner was not the wife of the opposite party are matters to be decided in the suit upon trial. It is also made clear that the fact that the petitioner is contesting the civil suit in the name of Arati Panda will not preclude the petitioner from pursuing her remedies under other statutes which are available to her as the alleged wife of Biswajit Samanta.

Time to file the written statement and the written objection to the injunction application is extended by a period of three weeks from date. Any

injunction that may be passed on merits will also not affect the petitioner's rights in other proceedings arising out of the alleged marriage.

Hearing of the suit should also be expedited and the same should be disposed of within a reasonable time without granting any unnecessary adjournments.

The revisional application is disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)