

08.11.2021
Item No.9
Ct. No.7
CHC
(disposed of)

**C.O.3893 of 2017
(Physical Hearing)**

**Pintu Ghosh
Vs.
Tanupriya Sarkar (Ghosh)**

Mr. Dilip Kumar Chatterjee
...for the petitioner

Mr. Shyama Prasad Purkait,
Ms. Moumita Mondal
...for the opposite party

Parties are represented by their learned advocates, names of whom are mentioned at the beginning of this order-sheet.

The impugned order no.21 dated 13th November, 2017 passed by the learned Additional District Judge, Diamond Harbour, South 24 Parganas, in Mat.Suit No.214 of 2015, rejecting the prayer for adjournment is a subject of challenge in this revisional application.

Mr. Dilip Kumar Chatterjee, learned advocate representing the petitioner/husband submits that learned court below has mechanically rejected the prayer for adjournment without assigning any reasons, which is absolutely illegal.

It is contended by the learned advocate for the petitioner that the case is matured one, when the petitioner has already examined one witness as D.W.1

and the evidence of D.W.2 was continuing and at that stage, the learned court below closed down the evidence of petitioner/husband rejecting the prayer for adjournment.

Mr. Shyama Prasad Purkait, learned advocate for the opposite party/wife submits that the matrimonial suit for divorce was instituted by the wife/opposite party in the year 2015, and where the petitioner/husband has already been provided with sufficient opportunity to adduce his evidence, but in spite of being favoured with sufficient adjournments earlier, the court rightly rejected the prayer for adjournment and closed the evidence of husband/D.W.

It is thus contended by the learned advocate for the opposite party that there lies nothing to be interfered with.

It is also contended by the opposite party that prayer for adjournment, already rejected by the learned court below, was nothing but to delay the matrimonial proceeding to an indefinite period of time, which was checked by the court below most appropriately.

The point is very clear that the matrimonial suit is pending between the parties, and in which the husband has already adduced two witnesses, out of which D.W.2 is lying deferred and at this stage the

prayer for adjournment was rejected by the learned court below.

Upon perusal of the impugned order, it appears that no sufficient reasons has been assigned by the learned court below, while rejecting the prayer for adjournment. The order rejecting adjournment, not being supported by reasons, is not sustainable.

The revisional application is thus disposed of upon setting aside the order no.21, dated 13th November, 2017.

Learned advocate for the petitioner is directed to produce the D.W. lying deferred either on the date fixed by the court below, or if for any reasons whatsoever the same could not be done, the date for examination of D.W.2 may be peremptorily fixed within three weeks thereafter, so that the pending matrimonial suit may be disposed of within a reasonable period of time, preferably within April, 2022.

It is, however, clarified that while deciding the case, both the parties must be given appropriate opportunities of hearing, but without granting unnecessary adjournment, unless it is extremely unavoidable.

Learned advocate for the opposite party/wife is to cooperate with the learned court below and indulge in cross-examining the D.W.2 to the extent extremely

necessary so that the matter required to be addressed, may be effectively adjudicated by the learned court below.

With the above observations/directions, the instant revisional application stands disposed of.

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

(Subhasis Dasgupta, J.)