

18.02.2022
Ct. 21
D/L 13
ab

C.O. 819 of 2021
(Via Video Conference)

Rajesh Shaw
-Vs-
Smt. Usha Shaw (nee Jaiswal)

Mr. Purbangshu Chandra Mitra,
Ms. Piyali Mitra,

... for the petitioner

Mr. Purbangshu Chandra Mitra, learned advocate appears for the petitioner.

The learned advocate for the petitioner files affidavit of service along with undelivered envelopes addressed to the opposite party/wife.

The revisional application is taken up for hearing.

Heard the learned advocate for the petitioner.

By filing the present application under Article 227 f the Constitution of India, the petitioner has challenged all the order that have been passed in Matrimonial Suit No. 10 of 2016, from Order No. 1, dated 25.01.2016 to Order No. 42, dated 15.01.2021, pending before the learned Principal Judge, Family Court at Calcutta.

From those orders, it appears that the wife/opposite party is a person of unsound mind. It also appears from the order dated 07.10.2020 that in the said matrimonial suit, the opposite party,

who is found to be an unsound person, is not represented with the express leave of the Court by her next friend or guardian. Therefore, it is seen that the matrimonial suit is proceeded against the unsound person without following the procedure as laid down in Order 32 of the Code of Civil Procedure.

Therefore, the matter is sent back on remand to the learned Court below to hear the same on the point of maintainability on the ground whether the same has been filed as per the provisions of Order 32 of the Code of Civil Procedure or not.

With the observations as above, the revisional application being **C.O. 819 of 2021** is disposed of.

Interim order, if any, stands discharged.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

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