

22.06.2022
Item No.3
Ct. No.7
CHC
(disposed of)

C.O.1019 of 2022

Smt. Shyamoli Banerjee
Vs.
Sri Utpal Banerjee

Mr. Arijit Dey
...for the petitioner

Mr. Raghunath Chakraborty,
Ms. Tanusree Das
...for the opposite party

The subject-matter of challenge in this revisional application is against the order dated 11th April, 2022, passed by learned Additional District Judge, Fast Track Court-I, Paschim Medinipur, in MAT Suit no.171 of 2000, declining to grant proposed adjournment, filed by the petitioner/wife to examine more witnesses in order to ensure available defence set out in her written statement.

Admittedly, the opposite party/husband filed suit against the petitioner/wife praying for dissolution of the marriage taking the grounds available under Section 13 of the Hindu Marriage Act. The suit was filed in the year 2000.

Learned advocate for the petitioner/wife submits that refusal to grant adjournment to examine more witnesses for the petitioner/wife would result in serious prejudice to petitioner/wife. The available defence set up in written statement, thus according to

petitioner, cannot be satisfactorily established without examining further witnesses.

Per contra, Mr. Raghunath Chakraborty, learned advocate appearing for the opposite party/husband submits that the entire purpose of the proposed adjournment, what has been rejected by the court below, is nothing but to cause delay in the disposal of the suit.

Supporting the order of the court below, learned advocate appearing for the opposite party submits that there has been a previous direction passed by coordinate Bench of this Court in C.O.2720 of 2010, requesting the court below to dispose of the suit on the ground of cruelty and desertion within a period of one and half years from the date of communication of this order. Such order has not been satisfactorily complied, learned advocate for the opposite party argues.

Having considered the submission of both sides, it appears that prayer for further examination of witnesses has been rejected by the court below.

Upon perusal of the relevant petition seeking adjournment, it appears that the number of witnesses, sought to be examined for and on behalf of the wife, has not been disclosed in so many words, but there has been reference in the petitioner that there are some witnesses still left to be examined for the defence to be effectively established during the pending trial.

As per submission disclosed by the learned advocate for the petitioner that there are two witnesses more, still left to be examined, and assures the Court that besides two other witnesses, there is no further witnesses to be examined for and on behalf of the wife/petitioner. Though there has been undoubtedly delay caused in the disposal of the suit, but an opportunity of raising successful defence should be given, otherwise there cannot be any effective adjudication of the matter in controversy between the parties.

The impugned order, is, thus set aside giving liberty to petitioner to examine two more witnesses, as proposed by the learned advocate for the petitioner, on the date to be scheduled by the court below.

The court below is thus directed to fix a suitable date or dates for examination of two more witnesses, to be examined by the petitioner on two consecutive dates giving opportunity of cross-examination to opposite party/husband.

Since there has been delay caused in the disposal of the suit, this would not prevent the court below to dispose of the suit within three months from the date of communication of this order, bearing in mind the previous order passed by this Court in C.O.2720 of 2010, for expeditious disposal of the Matrimonial Suit.

With this observation/direction, the 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.)