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Ct-08

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FAT 104 of 2022

with

I.A No. CAN 1 of 2022

Sangeeta Kejriwal

Vs.

Ashok Kumar Kejriwal

Mr. Pratip Mukherjee
Mr. Ranjit Rajak
Mr. Omar Faruq Gazi
Mr. Sundar Gopal Bhattacharyya
Ms. Prajaaini Das
... For the Appellant

Mr. Sundar Gopal Bhattacharyya
... For the Respondent

This matter is appearing in today's list under the heading "Application". However, by consent of the parties the appeal is also taken up by treating the same as on day's list along with the applications.

The appeal is directed against the judgment and decree dated 11th January, 2022 in connection with an application filed by the parties under Section 13B of the Hindu Marriage Act, 1955 before the learned Additional District Judge, 4th Court, Asansol, praying for dissolution of their marriage on mutual consent.

Learned counsel appearing for the appellant submits that the order passed in the said proceeding was obtained by practicing fraud on the appellant. However, we are unable to accept the said submission of the appellant as the first paragraph of the said order which clearly shows that before the application was taken up for dissolution of marriage on mutual consent an attempt was made for reconciliation between the parties. But both the parties expressed their unwillingness. Accordingly, the learned Judge

on the basis of their examinations in chief on affidavit decreed the suit on mutual consent. It is elementary to note that if there is any wrong recording in the order, the party disputing correctness of such recording must apply the court that had passed the order.

We feel that if the parties are not satisfied with the order of the learned Trial Court under Section 13B of the Hindu Marriage Act, 1955, the parties can file an application for review of the said order and it is only the learned Judge who can decide/consider the said issue whether any false representation is made before him.

The grounds taken by learned advocate for the appellant are unacceptable. However, this order shall not prevent the appellant to take appropriate step in accordance with law.

Affidavit-in-opposition filed by the respondent is taken on record.

In view of the above, the appeal stands disposed of.

In view of disposal of the appeal nothing remains to be decided in the application for stay being CAN 1 of 2022 and the same is accordingly disposed of.

(Siddhartha Roy Chowdhury,J.)

(Soumen Sen, J.)

