

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8157 of 2022

Smt. Haru Ghosh
Vs.
M/s. Eastern Coal Fields Limited & Ors.

Mr. Partha Ghosh
Mr. Amal Kumar Dutta
Ms. Ria Paul
Ms. Simran Sureka
Mr. Debashis Das
... For the petitioner

Ms. Tanushree Dasgupta
... For ECL

Mr. Rajarshi Basu
... For the respondent no.8

The respondent no.8 (private respondent) Rakha Hari Ghosh is personally present in Court. On a query from Court, the said respondent no.8 (Rakha Hari Ghosh) in open Court admits that he was married to Smt. Haru Ghosh – the petitioner – in the year 1980 but says that the marriage was solemnised under compelling circumstances. The respondent no.8 further says that after few days from the marriage with the petitioner, the petitioner has not been staying with the respondent no.8. The respondent no.8 also admits that he married Anita Ghosh in the year 1989.

The fact remains that the first marriage with the petitioner even if was under compelling circumstances as

submitted by the respondent no.8 appears to have remained in subsistence in the year 1989 as the same was not dissolved or declared void by any competent Court when he married Anita Ghosh. These issues are required to be dealt with before an appropriate forum upon taking necessary evidence. The writ Court cannot adjudicate on the validity of marriage. In this writ petition I am only concerned with the petitioner's prayer for initiating disciplinary proceedings against the respondent no.8 as per her representation dated 29th March, 2022, being Annexure "P-3" to the writ petition.

In view of the admission made by the respondent no.8, it will be open to Eastern Coalfields Limited (in short "ECL") – the employer – to independently dispose of the petitioner's representation dated 29th March, 2022 within a period of two months from date and take necessary steps against the respondent no.8 as per the decision that may be taken on the petitioner's representation.

ECL is also directed not to disburse any benefit to Anita Ghosh on the strength of the declaration given by the respondent no.8 in his service records maintained with ECL until the validity and authenticity of the two marriages of the respondent no.8 are adjudicated by a competent Court.

Since a suit filed by the petitioner, being Title Suit no.299 of 2021, before the Court of the learned Civil

Judge (Junior Division), 1st Court at Durgapur, I am not inclined to pass any further order in connection with the marriages said to have been solemnised by the respondent no.8 as aforesaid since the same will amount to usurping the jurisdiction of the civil Court. I am also informed that a maintenance case under the provisions of Section 125 of the Code of Criminal Procedure, 1973 had been initiated by the writ petitioner in the year 1988 and an order in the said proceedings has been passed directing the respondent no.8 to pay maintenance to the petitioner. The respondent no.8 has submitted that he is paying the maintenance complying with such order. The petitioner had also filed an application under Section 127 of the Code of Criminal Procedure, 1973 for enhancement of the maintenance which has been dismissed by an order dated 30th June, 2021 passed by the learned Judicial Magistrate, 4th Court at Durgapur.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)