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C.O. 1266 of 2022

**Soumen Dey
Vs
Meghna Chakraborty**

Mr. Dyutiman Banerjee, ... for the petitioner.

Mr. Sabyasachi Mukhopadhyay,
Ms. Kaushikee Banerjee,
... for the opposite party.

Petitioner assails order dated 17th March, 2022 passed by learned Additional District Judge, 1st Court, Barasat in Matrimonial Suit No. 55 of 2011 declining to grant time to examine a witness, even after closure of the defendant's evidence.

Mr. Dyutiman Banerjee, learned advocate appearing for the petitioner submits that one marriage officer has been sought to be examined to unfold the defence set up in the written statement, which was rejected by the Court below, mechanically upon consideration of the fact that the defendant's evidence has already been closed.

It is contended further that in the absence of such vital witness, who is a marriage officer, the controversy surfaces between the parties may not be unfolded.

Per contra, learned advocate appearing for the opposite party submits supporting the order of the Court below that the entire purpose of the petitioner

is to cause delay to the disposal of the suit.

It is submitted by the opposite party that suit has already set for argument.

Having considered the submissions of both the sides, it appears that rejection of a prayer for examination of a witness is under dispute in this case.

Admittedly, the suit has been set for argument.

When only one witness has been sought to be examined (marriage officer) to unfold the version of the defence set up in the written statement by the defendant, the Court is of the view that there will be no prejudice caused to the opposite party, if such examination is done in a time bound manner.

No further elaboration is necessary on such issue.

The revisional application is disposed of upon setting aside the impugned order dated 17th March, 2022 passed in a Matrimonial Suit No. 55 of 2011 of learned Additional District Judge, 1st Court, Barasat with a direction upon the Court below to fix a suitable date within two weeks after reopening of Puja vacation of the Court below, for examination of proposed witness, mentioned hereinabove by the petitioner/defendant.

It is, however, clarified that in doing such exercise, petitioner is given liberty to issue summons

well in advance for the examination of the proposed witness upon notice to the opposite parties.

The logical conclusion of the suit may be reached shortly, after the examination of such witness, preferably before the end of December 2022.

Parties are directed to make communication of this order to the learned Court below.

With this observation and direction, the revisional application stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)