

21.06.2022
(D/L-13)
Ct.-18
(Susanta)

C.O. 1621 of 2019
With
I.A. No. CAN 1 of 2019 (Old CAN 8650 of 2019)

Smt. Purnima Bardhan
-Vs-
Sri Achintya Bardhan

Mr. N. Chatterjee,
.... For the Petitioner.

Mr. Sandipan Banerjee,
Mr. Amal Kumar Banerjee,
... For the Opposite Party.

Affidavit-of-service files in Court today be
kept with the record.

The revisional application under Article 227
of the Constitution of India is at the instance of
the wife/respondent on a matrimonial suit filed
by the husband seeking dissolution of the
marriage between the parties by a decree of
divorce.

The said suit being Matrimonial Suit no. 253
of 2008 is pending before the learned Additional
District Judge Fast Track Court No. 3,
Barrackpore, District 24-Parganas (North).

The learned Trial Judge by the order
impugned being order no. 88 dated April 8, 2019
has dismissed the application filed by the
petitioner seeking amendment of her written
statement on the ground of delay.

Mr. N. Chatterjee, learned Counsel appearing on behalf of the petitioner submits that the learned Trial Judge should not have dismissed the said application since the prayer for amendment of written statement should be considered liberally, in support of such contention he refers to the decision of the Hon'ble Supreme Court in the case of ***Baldev Singh & Ors. Vs. Manohar Singh & Anr.*** reported in **AIR 2006 SC 2832**.

The trial of the suit has admittedly commenced. The evidence of the side of the husband was concluded in the year 2018.

On perusal of the application for amendment, it appears that no explanation whatsoever has been offered in the said application justifying the delay as to why such amendment could not be prayed for before the commencement of the trial of the suit, as such, the amendment sought for is clearly hit by the restriction of the proviso appended to Order VI Rule 17 of the Code of Civil Procedure.

The decision of the Hon'ble Supreme Court relied on by Mr. Chatterjee is not applicable in the facts of the present case.

The order impugned, therefore, does not call for any interference.

C.O. 1621 of 2019 is dismissed without any order as to costs.

In view of the dismissal of the revisional application, the connected application being I.A. No. CAN 1 of 2019 (Old CAN 8650 of 2019) is disposed of accordingly.

The arrear maintenance since has been cleared under the order of this Court, the learned Trial Judge is requested to expedite the disposal of the suit in implementation of the direction already passed by this Court in C.O.2236 of 2017.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)