

DL. August
16. 8, 2022

F.A.T. 139 of 2022

Amita Agarwal

Vs.

Sundeep Kumar Agarwal & anr.

Re: CAN 2 of 2022 (leave to appeal)

And

CAN 1 of 2022 (condonation)

- both filed on June 17, 2022

Mr. Gaganjyot Singh,

Mr. Rishav Kumar Singh,

Mr. A. Mitra,

...for the applicant.

Ms. Priyanka Agarwal,

...for the respondent no. 1.

The applicant has filed an application for leave to prefer an appeal along with an application for condonation of delay in filing the said application against the judgment and decree dated March 2, 2022 passed by the learned Additional District Judge, Third Court at Alipore, South 24-Parganas, in a proceeding initiated under Section 25 of the Special Marriage Act, 1954 by one Sundeep Kumar Agarwal, being the respondent no. 1, against Tanushree Saha, being the respondent no. 2, for a declaration of nullity of marriage. The suit was decreed in favour of the respondent no. 1 against the respondent no. 2 admitting acts constituting cruelty.

The present applicant claims herself to be the wife of the respondent no. 1. She wants to bring a charge of bigamy against the husband/respondent no. 1. As such, she filed an application for addition of party in the present matrimonial suit but it was not allowed and suit was decreed on admission subsequently. The

learned judge in the trial court, in our view, has rightly rejected the said application for addition of party as the scope of the matrimonial suit could not have been expanded at the instance of the present applicant. However, it is relevant to mention that any issue decided between Sundeep and Tanushree in Matrimonial Suit No. 3411 of 2019 cannot have any further adverse impact on the status of the appellant before us and will not create any impediment in a proceeding initiated by the present applicant against Sundeep.

Under such circumstances, we are inclined to hold that the present applicant has no right to prefer an appeal against the decree passed in favour of the respondent no. 1 against the respondent no. 2.

Accordingly, the application for leave to prefer appeal along with the application for condonation of delay stand dismissed. Consequently, the memorandum of appeal stands rejected.

In view of rejection of the memorandum of appeal, the application for stay filed under CAN 3 of 2022 becomes infructuous and the same is also dismissed.

There will be no order as to costs.

dns

(Soumen Sen, J.)

(Siddhartha Roy Chowdhury J.)