

05.09.2022
SL No.12
Court No.8
(gc)

**FAT 194 of 2022
CAN 1 of 2022**

**Suchismita Mullick
Vs.
Sudipta Roy**

Mr. Amarnath Sanyal,
Mr. Dyutiman Banerjee,
...for the Appellant.
Mr. Subhamoy Bhattacharya,
Mr. Shankar Mukherjee,
Ms. Kasturi Hazari,
...for the Respondent.

By consent of the parties, the appeal and the application are taken up together and disposed of by this common order.

The appellant is the wife. The appellant has challenged a decree passed ex parte. The wife denies that she was served with the writ of summons. The wife did not enter appearance and contest the suit, is not real state of affair. However, even if we assume that the suit was heard ex parte, we are not satisfied with the reason furnished by the Trial Court in decreeing the suit. Even in a proceeding for ex parte hearing, the Trial Court has to indicate the reason for acceptance of the case of the appellant. We do not find any discussion in the impugned order with regard to the merits of the evidence on the basis of which a finding could be arrived at that the husband was subject to mental and physical torture by the wife.

In view of the aforesaid, we set aside the decree under appeal. We direct the appellant to enter appearance and file the written statement within two weeks from date, failing which, the suit shall be heard ex parte.

All directions with regard to the procedural matter in order to make the said suit ready for hearing shall be immediately passed after the written statement is filed and all the directions should be peremptory in nature.

We request the learned Trial Judge to dispose of the matrimonial suit within a period of one year from the date of filing of the written statement subject to the convenience of the Trial Court.

The appeal being FAT 194 of 2022 and the application being CAN 1 of 2022, accordingly, stand disposed of.

However, there shall be no order as to costs.

Mr. Shankar Mukherjee, learned Advocate appears and undertakes to file Vakalatnama on behalf of the respondent/husband in course of the day. On the basis of such undertaking, the appearance of the learned Advocates for the respondent is recorded.

(Uday Kumar, J.)

(Soumen Sen, J.)