

23.11.2022
Item No.1
Ct. No.7
CHC
(disposed of)

C.O.2481 of 2022

Smt. Mahuya Roy Chaudhury
Vs.
Sri Rajat Roychowdhuri

Mr. Tapas Kumar Ghosh,
Mr. Tanmoy Chowdhury
...for the petitioner

Mr. Anirban Ray,
Mr. J. Sengupta,
Mr. I. Karfa
...for the opposite party

The subject-matter of challenge in this case is against the rejection of a prayer for stay of further proceedings of Mat. Suit No.447 of 2021, filed by the petitioner/wife, pending before learned Judge Special (Electricity Act)-cum-ADJ, Asansol, Paschim Bardhaman, till disposal of Misc. Case No.78 of 2021, under Section 24 of the Hindu Marriage Act.

Mr. Chowdhury, learned advocate appearing for the petitioner disputes with the impugned order submitting that whenever an application praying for *alimony pendente lite* has been filed by the wife, the court is under obligation to decide the same first as per settled proposition of law without allowing the movement of the suit ahead.

It is incidentally contended by the petitioner that petitioner/wife is in dire need of financial assistance for her sustenance.

Per contra, Mr. Sengupta, led by Mr. Anirban Ray, learned advocate representing the opposite party/husband submits that mere registration of a case under Section 24 of the Hindu Marriage Act seeking *alimony pendente lite* would not itself put a bar to the further movement of the case.

However, learned advocate for the opposite party discloses that witness action has already commenced pertaining to Misc. Case No.78 of 2021, praying for *alimony pendente lite*.

That being the position, no further elaboration is necessary.

The matter stands disposed of directing the court below to ensure expeditious disposal of Misc. Case No.78 of 2021 arising out of Mat. Suit No.447 of 2021, pending before the learned Judge (Electricity Act)-cum-ADJ, Asansol, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournment, unless it is extremely unavoidable, preferably before the end of February 2023.

Till the disposal of the Misc. Case, the original Mat. Suit no.447 of 2021 shall remain stayed.

This would not, however, prevent the court below to ensure logical conclusion of the suit expeditiously as possible after the conclusion of the Misc. Case followed by disposal of the interlocutory application, if there be any pending, at an early date.

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

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

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)