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C.O. 2224 of 2021

**Smt. Nandita Manna
Vs
Sri Dilip Kumar Manna**

Mr. Syed Nurul Arefin,
Mr. Masud Malik, ... For the petitioner.

Mr. Mukteswar Maity, ... For the opposite party.

The subject matter of challenge in this revisional application is against the refusal to accept written statement belatedly filed by the petitioner/respondent, in connection with Mat Suit No. 315 of 2005, now pending before the Additional District Judge, First Court Contai, Purba Medinipur.

Mr. Syed Nurul Arefin, learned advocate appearing for the petitioner/wife submits that the Mat Suit got stayed for about fifteen years approximately due to failure of the husband/opposite party to pay arrears of alimony pendente lite, already disposed of on 21st May, 2007.

According to learned advocate for the petitioner, the prayer for alimony pendente lite filed by the petitioner/wife has already been disposed of on 21st May, 2005, and ultimately the Mat Suit got stayed on the prayer of the petitioner/wife on 11th September, 2007.

It is contended by learned advocate for the petitioner that the on 10th May, 2018, the opposite

party/husband filed two petitions under Section 151 of the Code of Civil Procedure, praying for adjustment of maintenance amount paid, in connection with Misc Case No. 188 of 2003 against the arrears of alimony pendente lite, as per order of the Court below dated 21st May, 2007, and to modify the order consequently.

It is thus submitted by the learned advocate for the petitioner that delay caused in filing the written statement is not attributable to the conduct of the petitioner/wife, but it is due to the failure of the husband/opposite party to deposit arrears of alimony pendente lite, as per order of the Court below.

More so, the illness of the petitioner is another ground causing delay to the submission of written statement.

Per contra, Mr. Mukteswar Maity, learned advocate appearing for the opposite party/husband submits that the illness point raised not being supported by sufficient documents, the Court has rightly rejected the written statement.

It is contended by Mr. Maity that the petitioner/wife entered her appearance in the Mat suit on 7th February, 2006.

The suit for dissolution of marriage was filed by the opposite party/husband in the year 2005.

The written statement supposed to be filed within the period, as available under Order 8 Rule 1 of CPC,

could not be filed within the period mentioned herein.

Mr. Maity further raises objection submitting that without challenging the previous orders nos. 95 and 96, the subject matter of challenge is without sanction of law.

While making elaboration of the objection raised in this case, Mr. Maity submits that in view of the direction contained in C.O. No. 593 of 2021, requiring the Court below to ensure expeditious disposal pending Mat suit, the Court below has rightly refused to accept the written statement, what could not be filed during the last fifteen years.

Having considered the submission of both sides, it appears that there has been a direction passed in C.O. No. 593 of 2021, requiring the Court below to ensure expeditious disposal.

On 30th November, 2021, the petitioner admittedly filed her written statement, and also filed an application for show cause, together with another application for shifting back the suit from P. Board.

Though much has been disclosed in the submission of the learned advocate for the petitioner that there has been suppression of material facts, as regards the pending interlocutory applications, filed by the opposite party/husband under Section 151 of the Code of Civil Procedure on 10th May, 2018, while obtaining a direction passed in C.O. 593 of 2021 to

ensure expeditious disposal of the suit, but Mr. Maity strongly denies the same submitting that nothing has been suppressed in this case as these are matters on record.

The situation is thus clear that admittedly suit got stayed for about fifteen years, due to non-payment of alimony pendente lite by the husband/opposite party. Such significant fact has not been taken into account by the Court below, while declining to accept the written statement. It is surprising to note that such revealing fact even could not be brought to the notice of the Court at the instance of the learned advocate for the petitioner, in connection with the instant hearing for acceptance of the written statement.

When the petitioner/wife intended to set up her defence upon filing of written statement, the same should have been taken into account by the Court below, bearing in mind that the suit already got stayed for more than fifteen years due to making non-adherence to the directions passed by the Court below in connection with prayer for alimony pendente lite.

The impugned order as such, is not sustainable.

The impugned order No. 97 dated 30th November 2021 is thus set aside.

Learned Additional District Judge, First Court Contai, Purba Medinipur in connection with Mat Suit No. 315 of 2005 is directed to hear afresh the

applications, filed by the petitioner/wife on 30th November, 2021, along with show cause filed on the same date coupled with written statement, within a fortnight from the date of communication of this order by the learned advocate for the petitioner to the learned Court below.

While endeavouring such exercise, an opportunity of hearing must be given by the Court below to both the parties, so that the suit may be proceeded expeditiously upon sensing the message contained in C.O. 593 of 2021.

With this direction and observation, the revisional application being C.O. 2224 of 2021 is thus disposed of.

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

(Subhasis Dasgupta, J)