

29.08.2022
(I. No.11)
Ct.-18
(P. Jana)

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 3428 of 2018

Smt. Surupa Mondal

-Vs-

Dr. Bikas Mondal

Mr. Sounak Bhattacharya,
Mr. Debanjan Das,

.... For the Petitioner.

Mr. Tapan Coomaar Dey,
Ms. Shreya Chatterjee,

.... For the opposite party.

The revisional under Article 227 of the Constitution of India is directed against the order no. 26 dated June 12, 2018 passed by the 16th Court of learned Additional District Judge at Alipore, District : 24 Parganas (South) in Matrimonial Suit No. 33 of 2016.

The opposite party instituted a suit for dissolution of his marriage with the petitioner by a decree of divorce under Section 13 of the Hindu Marriage Act, 1955.

The opposite party filed an application for amendment of the petition for divorce thereby praying that his marriage with the petitioner be annulled by a decree of nullity instead of dissolving it by a decree of divorce.

The learned Trial Judge by the order impugned has allowed the said application.

Mr. Sounak Bhattacharya, learned counsel for the petitioner, submits that the amendment was sought for at the fag end of the suit and that too, without explaining as to why such amendment could not be prayed for earlier.

Mr. Tapan Coomar Dey, learned counsel for the opposite party, on the other hand submits that on the basis of the materials already on record, the opposite party by the proposed amendment is praying annulment of the marriage between the parties instead of

dissolution of the said marriage by a decree of divorce, in view of the nature of the suit, the stage of it cannot be a bar in allowing the said prayer of the opposite party, particularly when the proposed amendment, if allowed, would not result in a *de novo* trial of the suit.

Heard learned advocate for the parties, perused the materials-on-record.

The husband, on the basis of the evidence already on record wants to establish ground of annulment of the marriage between the parties, no prejudice would be caused to the wife if the husband is allowed to prove the said ground on the basis of the materials already on record, besides, to avoid another round of litigation between the parties on the ground on which the husband is now seeking a decree of nullity of the said marriage, the proposed amendment deserves to be allowed.

The learned Trial Judge in exercise of his discretion, has allowed the application for amendment, to which this Court is not inclined to interfere with.

Accordingly, CO 3428 of 2018 is dismissed without any order as to costs.

The learned Trial Judge is requested to dispose of the suit subject to regular payment of alimony pendente lite.

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.)