

06.12.2022
Item No.3
Ct. No.7
CHC
(disposed of)

C.O.3282 of 2022

Shrimati Rina Rani Kandar
Vs.
Madan Gopal Maity

Mr. Rabindranath Mahato,
Mr. Aritra Shankar Ray
...for the petitioner

Mr. Rajdeep Bhattacharyya
...for the opposite party

The subject-matter of challenge in this case is against the order dated 8th September, 2022, rejecting the prayer for adjournment proposed by the petitioner/defendant on the ground of illness of the defendant.

Mr. Rabindranath Mahato, learned advocate appearing for the petitioner submits that entire affidavit-in-chief furnished by the defendant has been directed to be expunged, upon rejecting the prayer for adjournment.

Mr. Mahato submits further that the petitioner/defendant will be unnecessary put to suffer serious mischief, if the petitioner/defendant is not allowed to contest the case upon adducing evidence in spite of the furnishing written statement setting up specific defence therein.

Mr. Rajdeep Bhattacharya, learned advocate appearing for the opposite party disputes with the submission of Mr. Mahato replying to the effect that the conduct of the petitioner is very revealing, and the defendant preferred to cause delay to the disposal of case seeking adjournment one after another from the year 2017 to 2022.

It is further submitted by the opposite party that plaintiff's evidence has been closed in the year 2017.

Having considered the submission of both sides, it appears that rejection of a prayer for adjournment proposed by the petitioner/defendant giving rise to the expunge of affidavit-in-chief furnished by the petitioner is the bone of contention between the parties.

Admittedly, this is a money suit, and petitioner/defendant has already submitted her written statement. The intention thus exhibited by Mr. Mahato for the petitioner is to contest the pending money suit thereby providing the petitioner/defendant an opportunity of adducing evidence so that the defence raised in the written statement may be best put up during the trial of this case.

There is some delay caused in adducing evidence, but when the evidence of the plaintiff has already been closed, this Court is of the view that if an opportunity is given to adduce the evidence, that would not cause prejudice to either of the parties to this case, and

rather it would subserve the purpose of justice. But such opportunity, may not be allowed to be encashed in an endless manner. There is no need of further elaboration on this issue.

The revisional application is thus disposed of upon setting aside the impugned order, permitting the petitioner to adduce evidence within three (03) weeks from the date of communication of this order to the court below, which will be suitably fixed by the court below, subject to the convenience of the court below, giving notice to the other side.

The collection of evidence, to be adduced by the petitioner/defendant, may be done, if necessary upon fixing consecutive dates. The logical conclusion of the suit may be reached without granting unnecessary adjournment, preferably before the end of March, 2023.

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.)