

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 11856 OF 2022

Kausik Kumar Sahoo ***Petitioner***

Mr. Partha Sarathi Nayak, Advocate

-versus-

The Judge, Family Court, ***Opp. Parties***
Bhubaneswar and another

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

18.11.2022

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. The Petitioner in this writ petition seeks for a direction to learned Judge, Family Court, Bhubaneswar to dispose of C.P. No.501 of 2018 at an early date.
 3. Mr. Nayak, learned counsel for the Petitioner submits that C.P. No.501 of 2018 has been filed under Section 13(1) (1a) of Hindu Marriage Act, 1955 (for short 'the Act') for dissolution of marriage by a decree of divorce. In spite of receipt of notice, the Opposite Party No.2 did not appear and hence she was set *ex parte* on 7th December, 2018. Subsequently, the *ex parte* judgment was passed on 4th October, 2019 under Annexure-2. Thereafter the Opposite Party No.2 filed an application to set aside the *ex parte* judgment and decree and to give her an opportunity of hearing. The said application was allowed vide order dated 3rd December, 2021. Thereafter, the Petitioner has filed his evidence in affidavit. Opposite Party No.2, instead of, cross-examining the Petitioner, filed an application for stay of Civil Proceeding on 22nd April, 2022, which has already been dismissed on 21st October, 2022.

Thus, there is no legal impediment on the part of learned Judge, Family Court, Bhubaneswar to proceed with the Civil Proceeding and to dispose of the same. He, however, submits that due to non-cooperation of the Opposite Party No.2, Civil Proceeding is being dragged, for which the Petitioner is seriously prejudiced. Hence, he prays for the aforesaid direction.

4. Considering the submission of learned counsel for the Petitioner and on perusal of the record, it appears that the Civil Proceeding is at present pending for cross-examination of witness on behalf of the Petitioner.

5. In that view of the matter, this writ petition is disposed of with a direction to learned Judge, Family Court, Bhubaneswar to proceed with the matter without granting unnecessary/long adjournment to any of the parties and make an endeavour for early disposal of C.P. No.501 of 2018.

6. The parties are also directed to cooperate with learned Judge, Family Court for early disposal of C.P. No.501 of 2018.

7. Needless to mention here that if any of the parties to the Civil Proceeding does not cooperate with learned Judge, Family Court, Bhubaneswar for early disposal of the same, it may take coercive action against him/her in accordance with law.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

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