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C.O. 270 of 2023

**Sri Toton Ghosh
Vs
Smt. Smita Ghosh**

Mr. Apurba Krishna Das,
Mr. Arup Krishna Das. ... For the petitioner.

Mr. Somnath Mukhopadhyay
... For the opposite party.

Affidavit-of-service filed by the petitioner be
taken on record.

The order dated 8th December, 2022 passed by
the learned Additional District Judge, 1st Court,
Barasat in connection with Matrimonial Suit No. 2431
of 2021 is under challenge in this revisional
application.

Learned advocate appearing on behalf of the
petitioner has submitted that the prayer for withdrawal
of the suit was rejected by the learned Trial Court on
the ground of pendency of the Misc Case under Section
24 of the Hindu Marriage Act. Being aggrieved by that
order the instant application has been filed.

From the order dated 08.12.2022 it appears that
learned Additional District Judge has proceeded with
the Matrimonial Suit.

Learned advocate appearing on behalf of the

opposite party has supported the order passed by the learned Additional District Judge, 1st Court, Barasat.

In the aforesaid facts and circumstances, Court can restrain the petitioner to withdraw Matrimonial Suit due to pendency of the Misc. Case under Section 24 of the Hindu Marriage Act.

In that view of the matter, learned Additional District Judge, 1st Court, Barasat is requested to dispose of the Misc. Case under Section 24 of the Hindu Marriage Act first and then take the issue of withdrawal of the Matrimonial Suit after hearing of both sides.

In the aforesaid facts and circumstances the order dated 8.12.2022 stands set aside.

Learned advocate appearing on behalf of the opposite party has submitted that opposite party/wife is willing to reside with the petitioner/husband and for that reason matter may be referred to for mediation.

Learned advocate appearing on behalf of the opposite party is at liberty to make necessary prayer before the Trial Court for sending the Matrimonial Suit for mediation.

Learned advocate appearing on behalf of the petitioner is at liberty to communicate this order to the learned Additional District Judge, 1st Court, Barasat.

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

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

(Bibhas Ranjan De, J.)