

September 8, 2023
Sl. No.7
Court No.19
s.biswas

CO 909 of 2023

Sri Phalguni Banerjee
vs.
Smt. Soumita Chakraborty

Mr. Tapas Kumar Ghosh
Mr. Tanmay Choudhury

... for the petitioner

The learned advocate for the opposite party/wife has received the copy of the revisional application along with the copy of the order passed on August 21, 2023. The postal article sent to the wife has come back with the endorsement, which indicates that the postal authorities tried to serve the copy on 28th, 29th and 30th August, 2023, but the door was found under lock and key on all the days.

Under such circumstances, as the learned advocate for the opposite party/wife appearing in the learned court below has been apprised of the pendency of the revisional application, this court is of the view that no useful purpose would be served in keeping the application pending.

The petitioner is the husband in Matrimonial Suit No.65 of 2022, which is pending before the learned Additional District Judge at Bolpur, Birbhum. By the order impugned, the learned judge took up the two applications filed by the wife dated December 16, 2022 for hearing. Both the applications were heard together in the presence of the petitioner. The order by which the suit was fixed

for ex parte hearing was recalled and the written statement filed by the wife on December 16, 2022, was accepted.

Mr. Choudhury, learned advocate for the petitioner, submits that the said applications were not served upon the husband. However, the record reveals that the husband was represented through his counsel. In any event, this court is of the view that the matrimonial suit should not be heard ex parte and the wife should be given adequate opportunity to contest the proceedings. The result of the matrimonial suit has a far reaching consequence. The social, economic and emotional status of the parties are impacted. Hence, it is matter of public policy and social justice that the wife should be allowed a last chance to contest the suit to the best of her ability.

Under such circumstances, although the learned court below did not assign any reason for allowing the belated acceptance of the written statement and only recorded that the wife was suffering from serious illness, this court is of the view that no gross irregularity has been committed by the learned court below in accepting the written statement at such a belated stage and by removing the suit from the ex parte board.

Mr. Choudhury submits that the learned court below wrongly interpreted the medical certificate. The medical certificate which was filed in court indicated that the daughter was ill and not the opposite party. In any event, for the reasons which have been mentioned hereinabove, this court is of the view that justice would be subserved if the wife is allowed to contest the suit in accordance with law.

However, it is made clear that the learned court below shall proceed with the suit expeditiously, without granting unnecessary adjournments to the opposite party.

The revisional application is thus disposed of.

All the parties are directed to act on the basis of the server copy of the order.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)