

14.03.2023
(sanjay)
Ct no. 654
Sl. 9

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

**CO 1846 of 2022
with
CAN 1 of 2023**

**Kuntal Dasgupta
versus**

Avigya Dasgupta (Ganguly)

Mr. Chittapriya Ghosh,
Mr. Somesh Ghosh ...for the petitioner.

Mr. Avijit Chakraborty,
Mr. Shankha Subhra Dutta ...for the opposite party.

This revisional application has been filed by the petitioner-respondent under Article 227 of the Constitution of India challenging Order No.9 dated 19 May 2022 passed by the learned Additional District Judge, Fast Track, 2nd Court, Barrackpore, 24 Parganas (North) in Matrimonial Suit No. 1848 of 2020.

The brief fact involved in this application is that the opposite party filed a suit for decree of dissolution of marriage. In the said suit the petitioner-respondent entered appearance on 24 December 2021. Subsequent thereto the petitioner-respondent on 19 May 2022 sought for time to file written statement. The petitioner-respondent also filed an application for reconciliation. The prayer seeking time to file written statement was rejected by the learned trial court and the petition seeking

reconciliation was disposed of, fixing *ex parte* hearing of the suit.

Being aggrieved and dissatisfied with the impugned order the petitioner-respondent has preferred the present revisional application.

Mr Ghosh, learned advocate appearing for the petitioner-respondent submits that period of limitation to file written statement by the petitioner-respondent stood extended for a period 90 days from 1.3.2022 as stipulated in the order of the Hon'ble Supreme Court passed in *Suo Motu* Writ Petition (C) No.3 of 2020 and was to expire on 1.6.2022. However, without considering such observation as aforesaid, the learned trial Court rejected the application of the petitioner-respondent seeking time to file written statement on 19 May 2022 which should be set aside and the petitioner-respondent be given liberty to file written statement and also press his application for reconciliation. He files copy of the aforesaid order of the Hon'ble Court which is taken on record.

Mr Chakraborty, learned advocate appearing for the opposite party submits that the petitioner is resorting to dilatory tactics to drag the proceedings and has purposefully failed to appear before this Court on several occasions which led to delay in disposal of the present application.

Admittedly, the suit was filed on 22 December 2020. As per *Annexure 'A'* to the revisional application 4 March 2021 was fixed for appearance of the petitioner-respondent. At this juncture, it will be relevant to reproduce the observation of the Hon'ble Supreme Court passed in *Suo Motu Writ Petition (C) No.3 of 2020*.

"III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply."

Bearing in mind the aforesaid observation, since the suit was filed on 22 December 2020, which falls between 15.3.2020 and 28.2.2022 and the petitioner-respondent entered appearance on 24 December 2021 which also falls within such period, hence limitation of 90 days from 01.03.2022 is applicable in the case of the petitioner-respondent. Thus the period for filing written statement in terms of order of the Hon'ble Court stood extended till 1.6.2022.

Accordingly, the impugned order passed on 19 May 2022 rejecting the prayer seeking time to file written statement by the petitioner-respondent is set aside.

The petitioner-respondent is granted liberty to file written statement within a period of two weeks from date.

Further the learned Trial Court is directed to dispose of the application filed by petitioner-respondent

seeking reconciliation in accordance with law.

The revisional application being **CO 1846 of 2022** stands disposed of.

The application being **CAN 1 of 2023** is also disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copy of this order if applied for the given to the parties upon compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)