

Item-23. 30-01-2023

FA 8 of 2023
CAN 1 of 2022

^{sg} Ct. 8

Archana Sarkar
Versus
Sitesh Sarkar

Mr. Avishek Prasad, Adv.
Ms. Sreetama Neogi, Adv.

...for the appellant

Mr. Mohit Gupta, Adv.
Mr. Chandrakanta Kushwala, Adv.

...for the respondent

Both the appeal and the application are taken up together and disposed of by this common order.

The appeal preferred against the ex-parte decree dated 21st May, 2022. The application under section 27 of the Special Marriage Act, 1954 was filed on 2nd September, 2021.

From the order-sheet, it appears that the appellant was given at least three opportunities to file written statement. In fact, before the matter was posted for ex-parte hearing, the appellant had at least two opportunities to approach the trial court with a prayer for filing of the written statement.

The trial court appears to have passed a decree on the basis of the evidence adduced on behalf of the appellant. It cannot be said that on the basis of the evidence available with the learned Trial Court, the decree was otherwise bad or based on no evidence.

However, having regard to the fact that the allegation against the wife is serious in nature and it proved it may have an adverse effect, we permit the wife/appellant to file written statement in the suit within two weeks from date, in default, the decree already passed shall revive.

The aforesaid directions are preemptory.

In the event the written statement is filed, the learned Trial Judge is requested to give preemptory directions with regard to procedural matters and proceed with the suit as expeditiously as possible without granting any adjournment to either of the parties unless it is unavoidable.

The parties are directed to abide by all the directions to be passed by the learned trial court.

All such directions are treated as preemptory.

Subject to filing of the written statement, the impugned decree shall stand set aside.

We make it clear that we have not gone into the merits of the dispute.

With the above directions, the appeal and the connected application are, accordingly, disposed of.

(Uday Kumar, J.)

(Soumen Sen, J.)