

21.08.2023
Court No. 19
Item No.05
CP

C.O. 3837 of 2022
Kabita Das (Singha)
Vs.
Sujoy Singha

Mr. Partha Pratim Roy
Mr. Dyutiman Banerjee

...for the petitioner.

The petitioner is aggrieved by the long pendency of Misc. Case No. 10 of 2022 filed in connection with Matrimonial Suit No. 283 of 2021. The said application and the Matrimonial Suit are pending before the learned Additional District Judge, 2nd Court at Serampore. The petitioner contends that the suit and the Misc. Case are running parallelly, but the learned court must make an effort to dispose of the Misc. Case first. Unless the application for maintenance pendente lite is decided, the suit for divorce should not be finally decided.

This court finds substance in the contention of Mr. Roy, learned advocate for the petitioner. The prayer for expeditious disposal of the Misc. Case is innocuous. Thus, service of prior notice upon the opposite party is not required. An order of expeditious disposal of a proceeding cannot adversely affect any party. The application for interim maintenance filed by the wife should be disposed of

before the suit for dissolution of marriage is finally adjudicated. The participation of the wife is at stake.

Under such circumstances, although the learned court below rightly continued with the cases parallelly, but at this juncture, this court is of the view that the application for maintenance pendente lite should be decided on the evidence already on record. The parties should also be allowed to adduce further evidence on the issue of the claim for maintenance. The said application shall be disposed of within a period of four months from the next date fixed. This court has not expressed any opinion on the merits of the maintenance application.

The learned court below shall proceed with the Matrimonial Suit No. 283 of 2021 as per the outcome of the Misc. Case.

A copy of the revisional application along with a server copy of this order be served upon the opposite party and/or the learned advocates contesting the matter on behalf of the opposite party in the learned court below, within a week.

The revisional application is disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)