

21.6.2023
ct. 236
sk,sl. 24

C.O. 3940 of 2014

Manik Adhikary-vs-Tanu Adhikari

None appears on behalf of either of the parties.

The Hon'ble Supreme Court in Robin Thapa Vs Rohit Dora, reported in AIR 2019 S.C.C. 3225 held that:

“8 Ordinarily a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default, either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits”.

This application under Article 227 of the Constitution of India challenges the Order No. 33 dated 4th September, 2014 passed by the learned Additional District Judge, 2nd Court at Purba Medinipur. One application was filed in the matrimonial suit by the respondent/husband seeking dismissal of the suit on the ground that petitioner is not his legally married wife. The learned trial court was justified in rejecting the application as it is mixed question of fact and law which cannot be decided by answering a preliminary issue on the point of maintainability.

This order does not warrant any interference. There is nothing to hold that learned trial court failed to exercise the jurisdiction vested in it.

The revisional application stands dismissed.

(Siddhartha Roy Chowdhury, J)