

04.10.2023
Court No.1
Item No.4

**HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

FAT 1 of 2022

**Jaba Singha
Vs.
Salil Chakraborty**

Mr. Kalipada Das

... For the Appellant.

1. The appeal has been filed challenging the judgment and decree ex parte dated 23rd March, 2021 passed in Matrimonial Suit No.176 of 2020 by the learned Additional District Judge, FTC –I at Alipurduar.

2. The principal ground on which the appeal has filed is that the appellant did not have notice of the suit.

3. It is next submitted that the Court below did not have territorial jurisdiction to receive, entertain or trial the suit and hence the decree is a nullity.

4. It is further submitted that the appellant never resided in Alipurduar after her marriage and she lives with her parents at Kolkata in Dumdum.

5. From the decree it is clear and evident that service of the writ of summon was effected on the appellant. She has chosen not to contest the suit. The

Court below found and it has also been pleaded in the application to the appeal that the appellant never resided with the respondent/husband since marriage on 16th August, 2017.

6. It could be presumed that there were no matrimonial relations at all between the appellant and the respondent/husband.

7. The respondent/husband deposed in the suit and his brother Krishna Chakraborty also deposed in support of the plaint.

8. This Court finds that since marriage was solemnized at Alipurduar and the parties lived in Alipurduar albeit for a brief period, the jurisdiction of the Court below to entertain the suit cannot be questioned. The appellant has not chosen any other remedy against the ex parte decree and has filed the instant appeal directly.

9. In the above facts and circumstances of the case, this Court is of the clear view that the impugned judgment and decree dated 23rd March, 2021 calls absolutely for no interference.

10. With the aforesaid observations, the appeal shall stand dismissed.

11. There shall be no order as to costs.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Supratim Bhattacharya, J.)