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04.04.2023
SB
Ct. No. 2

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

C.O. 25 of 2023

Puja Sharma nee Agarwal @ Puja Agarwal Sharma
-versus-
Dilip Sharma

Mr. Milindo Paul
Mr. Nabankur Paul
Ms. Bedasruti Bose ...For the Petitioner

Mr. Ajoy Kumar Singhanian
Mr. Anirban Banerjee
Ms. Madhurima Roy ... for the Opposite Party

This revisional application arose from the impugned order no. 27 dated January 24, 2023 passed by the learned Additional District Judge, 2nd Court, Siliguri in MAT Suit No. 146 of 2018.

The petitioner herein claimed to be wife of the opposite party. The opposite party / husband instituted the civil suit. The opposite party / husband had already been examined-in-chief on December 23, 2021. The impugned order shows on repeated occasions adjournment was sought for on behalf of the wife being the petitioner herein and ultimately the conclusion was drawn by the learned Trial Court that the petitioner herein refused to cross-examine the husband / opposite party, consequently, the prayer for cross-examination by the petitioner herein to the husband / opposite party was rejected

It is trite that right of cross-examination, if is negated, it will be the violation of basic principle of natural justice.

Learned advocates for both the parties submitted that the next date for hearing of the suit is fixed on April 20, 2023.

Considering the submissions made on behalf of the parties and considering the materials on record the impugned order dated **January 24, 2023 stands set aside and quashed.**

It is made clear that on the next date fixed i.e. April 20, 2023 the petitioner herein being the defendant wife shall commence and conclude the cross-examination of the husband / opposite party herein positively. It is made clear that the learned Trial Court shall not grant any adjournment in the suit on the day fixed.

In the event, the petitioner herein chose not to cross-examine the husband / opposite party (P.W.1) herein in the said MAT Suit No. 146 of 2018 fixed on April 20, 2023, the impugned order dated January 24, 2023 shall revive with its full force and effect without any fetter and without any reference to this Court.

On the above terms this revisional application being **C.O. 25 of 2023** stands allowed, without any order as to costs.

(ANIRUDDHA ROY, J.)