

4.09.2023
SL No51
Court No.3

Circuit Bench of Calcutta High Court
At Jalpaiguri
C.O. 101 of 2023

Sima Dey Biswas

-vs-

Bijay De

Mr. Arnab Saha

.....for the petitioner.

This is an application under Article 227 of the Constitution of India filed by Ms. Sima Dey Biswas, respondent in Matrimonial Suit No. 373 of 2021 filed by Sri Bijay De for dissolution of marriage and the same is pending before the learned Additional District & Sessions Judge, Fast Track Court-I at Alipurduar.

Heard Mr. Saha, learned counsel for the petitioner.

It is submitted that on 8th May, 2023 Sri Bijay Dey who filed the suit for dissolution of marriage was examined- in-chief in full. He was cross-examined but in part. On 6th June, 2023, the said witness was supposed to be cross-examined. On that day, the learned counsel for the opposite party/wife prayed for an adjournment and the suit was posted for further cross-examination on 6th July, 2023 but again the witness was cross-examined but in part.

2nd August, 2023 was scheduled for further

cross-examination of the witness of PW-1 and on that day, the opposite party was not represented.

Learned trial court was pleased to close evidence of PW-1 and 28th August, 2023 is fixed for evidence of O.P. to No.1.

It is submitted by Mr. Saha that the wife/respondent before the learned trial court should be given an opportunity to cross-examine the PW-1 as she was not at fault per se. But learned counsel could not impeach the order impugned.

Expeditious justice is now considered as constitutional right of the parties to the proceeding. Learned counsel for the opposite party, if I may be permitted to say so, failed to extend required assistance in achieving that goal.

However, considering the facts and circumstances of the case, I do not consider be expedient to issue notice upon the opposite party/husband and/or to pass any order of stay of the proceeding before the learned Trial Court.

For the interest of justice I would request the learned trial court to give an opportunity to the respondent/wife to complete the cross-examine PW-1 on the day to be fixed if the cross-examination is not concluded, no further opportunity shall be

granted to the respondent and the evidence shall be closed.

The order impugned is thus set aside.

The revisional application is thus disposed of.

(Siddhartha Roy Chowdhury,J)