

05.02.2024
Sl. No.16(ML)
srm

C.O. No. 183 of 2024

Sri Rajat Ghosh

Versus

Smt. Ratna Ghosh

Mr. Debasis Sur,
Mr. Hare Krishna Halder,
Mr. Mrinmay Chatterjee,
Mr. Nilay Baran Mondal

...for the Petitioner.

Mr. Noni Gopal Chakraborty

...for the Opposite Party.

The order impugned dated June 16, 2023, passed in Mat
Suit No.349 of 2019, by the Additional District Judge,
Chandannagore, Hooghly (In-Charge), has been challenged.

The order impugned reads as follows:

“P.O is on leave. Ld. Additional District & Sessions
Judge, Fast Track Court, Chandannagore, Hooghly is in
charge.

In view of exorbitant heat wave condition, resolution is
taken by Local Bar requesting not to pass any adverse
order if no steps are taken by them.

Petitioner/wife takes no steps.

Notice issued through registered post is received
unserved with report on envelop as mentioned ‘No
such person in this address’.

Seen. Let it be kept with the record.

Notice issued through court has not yet been received
after service.

None move.

Case is adjourned.

Fix 08.8.23 for SR.”

The contention of the learned Advocate for petitioner is
that service upon the defendant No.2 should be dispensed

with, as the criminal proceedings against the husband, on the allegation of bigamy had been disposed of and the petitioner was discharged under Section 245(3) of the Code of Criminal Procedure. Such discharge would go to show that the defendant No.2 was not at all a necessary party in the proceeding.

I do not find any illegality in the order impugned. It is not for the petitioner to say whether the defendant No.2 should be served or not. The defendant No.2 has been impleaded in her personal capacity and carriage of proceedings in the hands of the plaintiff. The court recorded that the notice through registered post was un-served and the envelope mentioned "No such person in this address". The court is awaiting a report, to see whether the notice issued through court could be delivered or not, at the address of the defendant No.2.

Accordingly, the revisional application is dismissed.

Upon completion of service, the suit should be expedited.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)