

29.04.2024
Sl. No.25(DL)
srm

C.O. No. 1803 of 2023
Puja Kedia nee Puja Bajaj
Versus
Amit Kedia

Mr. Saptangsu Basu,
Mr. Ananda Gopal Mukherjee,
Mr. Soham Ray

...for the Petitioner.

Mr. Amit Kedia ...Opposite Party-in-Person.

1. The revisional application arises out of an order dated April 17, 2023 passed by the learned Additional District Judge, 10th Court Alipore, South 24-Parganas, in Matrimonial Suit No.3094 of 2018.
2. By the order impugned, the learned court stayed the matrimonial suit. On December 20, 2022, the same court had rejected an application for stay of the suit.
3. The matrimonial suit for divorce has been filed by the wife. In the said suit, the husband/opposite party filed an application for maintenance for the minor child. The said application was filed in 2021, but the same had been kept pending. By now, the son has attained majority. However, when the application was filed the child was a minor.

4. The contention of the opposite party/husband was that as both the parties had sufficient income they should jointly maintain the child. Such application is yet to be disposed of, but the matrimonial suit proceeded and is at the stage of evidence. Under such circumstances, the opposite party had no other alternative, but to pray for stay of the proceedings.
5. A matrimonial suit can be stayed when there is default in payment of the maintenance. The learned court stayed the proceedings without any formal application and without assigning any reasons.
6. I find from the records that the matrimonial suit is at the stage of evidence. It is also available from the record that the application for maintenance for the son has been pending since 2021. Thus, this Court directs that the application for maintenance as was filed in 2021 by the opposite party should be disposed of first, i.e., within two months from the next date fixed. Thereafter, the suit shall proceed in accordance with law and be disposed of expeditiously, provided that maintenance if any is directed by the court is paid by the wife.
7. The order impugned is modified to the above extent.
8. The revisional application is, thus, disposed of.

9. There shall be no order as to costs.

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

(Shampa Sarkar, J.)