

March 10, 2025
Sl. No.40
Court No.16
s.biswas

FMAT 64 of 2025
With
CAN 1 of 2025

Barsha Ray
vs.
Rishabh Ray

Mr. Prossanjit Mukherjee
Mr. Jahangir Hossain
Mr. Monishi Mondal

... for the appellant

1. The present appeal has been preferred against the dismissal of a suit for default and consequentially the dismissal of a miscellaneous case under Section 24 of Hindu Marriage Act filed by the appellant.
2. Since the dismissal for default of a suit is not a “decree” within the contemplation of Section 2 of the Code of Civil Procedure, nor is it appealable under any of the Rules under Order XLIII of the Code of Civil Procedure, the dismissal of the suit for default itself is not appealable. In any event, any order passed in a miscellaneous case arising under Section 24 of the Hindu Marriage Act is also not appealable under any provision of law.
3. Accordingly, FMAT 64 of 2025 is dismissed as not maintainable, with liberty to the appellant to prefer a properly constituted challenge before the appropriate Court/Bench having determination.

Nothing in this order shall prevent the appellant from preferring such a challenge.

4. Leave is granted to the learned advocate for the appellant to take back the certified copy of the impugned order upon furnishing a photocopy of the same for the records.
5. CAN 1 of 2025 is disposed of accordingly as well.
6. There will be no order as to costs.
7. Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)