

Court No. 6
(265719)
30.06.2025
(A 1608)
(S. Banerjee)

CO 718 of 2025
Dr. Kumardip Banerjee
Vs.
Saswati Banerjee

Mr. Ashok Banerjee, Sr. Advocate
Ms. Somali Bhattacharya
Ms. Mayuri Ghosh
Ms. Meghna Dhar

...for the petitioner

Mr. Sourojit Dasgupta
Ms. Akanksha Mukherjee
Ms. Payel Chakraborty

...for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being no. 77 dated January 17, 2025 passed by the learned 13th Additional District Judge, Alipore in Mat. Suit No. 123 of 2013. By the order impugned, the application filed by the wife/opposite party herein for appointment of an Advocate Commissioner for recording the evidence of her father as DW-2 at the residence in Saltlake, stood allowed.

Mr. Banerjee, learned Senior Advocate appearing for the husband/petitioner submits that the father of the wife/opposite party, who shall give evidence as DW-2, is a reputed doctor and is attending various clinics and chambers on regular basis for pursuing his medical profession. He, therefore, submits that the DW-2 should be directed

to appear personally before the learned trial judge and adduce evidence as DW-2.

Learned advocate appearing for the wife/opposite party submits that the father of the wife/opposite party is suffering from severe knee problem and for such reason it is very difficult for the DW-2 to appear before the learned trial judge to give evidence as the court is situated in the first floor and there is no lift facility available in the said court building. He further submits that it is very difficult for the DW-2 to climb stairs of the court for the purpose of giving evidence.

This Court has been given to understand that, in the meantime, the parties have arrived at an amicable arrangement and the DW-2 has agreed to give evidence on Commission at any neutral place to be agreed upon by and between the parties which will be situated in the ground floor of any building in the vicinity of Calcutta High Court and, in the event any suitable place in the ground floor is not available, then the DW-2 can give evidence in any of the top floor provided the building has lift facilities.

It will be open to the respective parties to amicably decide as to the venue where the DW-2 shall give evidence on Commission.

DW-2 is directed to file the evidence-in-chief on or before July 15, 2025.

The learned trial judge is requested to fix a date for evidence of the DW-2 on Commission and the parties shall apprise the learned trial judge of the venue where the recording of such evidence shall take place.

The learned trial judge is requested to make an endeavour to see that the evidence of the DW-2 is concluded as expeditiously as possible, preferably within a period of four weeks from the next date fixed by the learned trial judge.

The impugned order stands modified only to the extent as indicated hereinbefore.

The learned trial judge is requested to make an endeavour to dispose of the matrimonial suit as expeditiously as possible without granting any unnecessary adjournment to either of the parties.

It is, however, made clear that the opposite party shall bear the cost of the venue in addition to the fees and expenses of the Commission as directed to be borne by the opposite in terms of the impugned order.

With the above observations and directions, CO 718 of 2025 stands disposed of.

(Hiranmay Bhattacharyya, J.)