

22.05.2025
DL. 17
Court No. 652
sg

C.O. 1313 of 2024
With
IA. No. CAN 1 of 2024

Sri. Shibnath Roy
Vs.
Smt. Satabdi Roy (Aich)

Mr. Pratip Mukherjee
Mr. P. Biswas
.....for the petitioner.
Ms. Debanwita Pramanik
.....for the opposite party.

Present petition has been filed under Section 24 of the Civil Procedure Code for transfer of Matrimonial Suit No. 177 of 2022 pending before the learned Principal Judge, Family Court, Kolkata. Brief backgrounds facts are that petitioner/husband filed a Matrimonial Suit No. 177 of 2022 titled as **Sri. Shibnath Roy Vs. Smt. Satabdi Roy (Aich)**. In that Matrimonial Suit No. 177 of 2022 an application under Section 24 of Hindu Marriage Act, there in IA. No. CAN 5 of 2023 filed by the wife/opposite party. Learned Counsel for the petitioner Mr. Pratip Mukherjee submits that in the present matter Ms. Chaitali Mukhopadhyay, Advocate-on-record has been appearing and representing the husband before the learned Principal Judge, Family Court, Kolkata since inception and he was engaged by Ms. Chaitali

Mukhopadhyay as a counsel. Mr. Pratip Mukherjee states he being a member of the Bar Library Club, cannot file the vokatnama. Learned Counsel submits that he has been appearing as a counsel before the learned Family Court since beginning and no objection was taken by the learned Judge or the opposite party. However, while learned counsel was cross-examining the wife in the proceedings under Section 24 of the Hindu Marriage Act, the learned Family Court, Kolkata did not allow him to proceed on ground of that his vokatnama is not on the record. Mr. Pratip Mukherjee also states that Ms. Chaitali Mukhopadhy, advocate-on-record had never stated she will not be able to conduct the case on behalf of the opposite party.

Mr. Pratip Mukherjee, learned counsel submits that the order dated 13th March, 2024 has separately been challenged by separate revision petition. Learned Counsel submits that he would not press his averments for transfer of the case from the learned Principal Judge, Family Court, Kolkata to learned District Judge, Barasat, if he is allowed to appear as a counsel before the learned learned Principal Judge, Family Court, Kolkata for the petitioner/husband.

Ms. Debanwita Pramanik learned counsel appearing for the opposite party has very fairly submitted that she had never objected appearance of Mr. Pratip Mukherjee, as a counsel before the learned Principal Judge, Family Court, Kolkata and she would not raise any objection and presently also no objection.

Section 13 of the Family Court Act provides as under:

“13. Right to Legal representation – Notwithstanding anything contained in any, no party to a suit or proceeding before a Family Court shall be entitled, as of right, to be represented by a legal practitioner:

Provided that if the Family Court considers it necessary in the interest of justice, it may seek the assistance of a legal expert as amicus curiae.”

It is pertinent to mention that the Family Court Act was enacted with a legislative intent that dispute concerning the family be handled with a different approach as adopted in ordinary civil proceedings. The endeavour and the intention of the legislature is to promote settlement in the family disputes and therefore special procedure was evolved relating to matter concerning the family. The speedy settlement of the family dispute was also one of the solemn object. The Courts

have time and again encouraged and promoted the amicable settlement between the parties. Section 13 of the Family Court Act, 1984 is required to be read with the entire scheme of the Act taking into the account the basic principle of interpretation of statute that any provision is to be read "*ejusdem generis*". The intention of the legislature seems to be to keep the procedure simple and encourage the parties to handle their disputes mutually and amicably. The right of fair trial is a constitutional right which is paramount to all the legislations. The order dated 13th March, 2024 is under challenge and is to be examined by this Court.

However, in order to ensure that there should not be any delay in the matter and taking into account the fact that Mr. Pratip Mukherjee, Bar Library Club, Ms. Chaitali Mukhopadhyay, advocate-on-record and Ms. Debanwita Pramanik, learned counsel appearing for the opposite party/wife have stated at bar that Mr. Pratip Mukherjee was appearing as a counsel before the learned Principal Judge, Family Court, Kolkata since beginning, let Mr. Pratip Mukherjee be allowed to appear as a counsel for the petitioner/husband before the learned Principal Judge, Family Court, Kolkata. However, question as to interpretation of Section 13 of the Family

Court and the legality of the order dated 13th March, 2024 is left open.

However, no expression made in this proceedings be tantamount as to an expression on the merits of the case.

Accordingly, petition stands disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(Dinesh Kumar Sharma, J.)