

Court No. 6

(265719)

17.09.2025

(AD 8)

(S. Banerjee)

CO 2090 of 2025

Abhi Bhattacharjee

Vs.

Payel Bhattacharjee

CAN 1 of 2025

Mr. Aniruddha Bhattacharya

Mr. Arnab Roy

...for the petitioner

Mr. Rwitendra Banerjee

Mr. Sandip Kundu

...for the opposite party

Although this matter is appearing under the heading 'Extension of Interim Order', with the consent of the respective parties, the civil revision application is taken up for hearing by treating the same as on the day's list.

Affidavit of service filed in Court today, is taken on record.

This application under Article 227 of the Constitution of India is at the instance of the husband and is directed against orders dated April 1, 2025 and May 13, 2025 both passed by the learned District Judge, Hooghly in MAT Suit No. 256 of 2023.

It appears from the order dated April 1, 2025, that the petitioner did not put in the cost imposed as

a condition for acceptance of the written statement and for such reason, the learned trial judge passed an order directing that the suit be fixed for ex parte hearing on May 13, 2025.

On May 13, 2025 the husband/petitioner herein filed an application praying for vacating the ex parte order dated November 13, 2024. Such application was rejected by the order dated May 13, 2025.

The opposite party/wife filed an application being CAN 1 of 2025.

The opposite party has stated in the said application that even if the civil revision application is allowed in favour of the petitioner, a direction be passed upon the learned trial judge to dispose of the entire suit within the stipulated time frame.

Learned advocate appearing for the petitioner submits that for reasons beyond the control of the petitioner, there was a delay in filing the written statement resulting in fixing the suit for ex parte hearing. He submits that unless the order of ex parte hearing is vacated and the petitioner is permitted to contest the suit from the stage when the suit was fixed for ex parte hearing, the petitioner will suffer irreparable loss and injury. He submits that the petitioner be allowed to file the written statement.

Mr. Banerjee, learned advocate appearing for the opposite party submits that the husband/petitioner is trying to drag the matrimonial suit. He further submits that in spite of subsistence of an order directing the petitioner to pay maintenance in a proceeding under Section 125 of the Code of Criminal Procedure, the husband/petitioner has defaulted in paying such maintenance. He submits that the husband/petitioner herein is not regularly paying the maintenance.

Faced with such situation, learned advocate appearing for the petitioner submits that he shall instruct the petitioner to pay off the arrear maintenance, if any, and the current maintenance within the time limit as directed by the order passed in a proceeding under Section 125 of the Code of Criminal Procedure.

Mr. Banerjee submits that in the matrimonial suit the petitioner has not filed any application for alimony pendente lite.

Considering the fact that the suit is a matrimonial suit, this court is inclined to vacate the order of ex parte hearing and permit the petitioner to file a written statement within a stipulated time limit and to cross-examine the witness of the plaintiff.

Mr. Banerjee further submits that in the event the written statement is directed to be accepted, the issues in the suit may have to be framed and the petitioner may have to recall the witness in order to deal with the case that may be set up in the written statement to be filed by the petitioner.

In view thereof, the orders dated April 1, 2025 and May 13, 2025 insofar as the rejection of the petition for vacating the ex party hearing and fixation of a date of ex parte argument are concerned, are set aside.

The learned advocate appearing for the petitioner draws the attention of the court to pages 17 to 30 of the civil revision application in support of his contention that the draft of the written objection/written statement is ready and the same shall be filed within the time limit as may be fixed by this court. He prays for a week's time to file such written statement before the learned trial judge.

In the light of the submission made by the learned advocates for the respective parties, the learned trial judge is directed to accept the written statement of the petitioner if the same is filed on or before September 24, 2025 without requiring the petitioner to pay any cost for belated filing of such

written statement. The learned trial judge shall proceed with the suit in accordance with law.

It is, however, made clear that the petitioner shall be afforded an opportunity to cross-examine the witness of the plaintiff who may have already adduced evidence till date.

It will be open to the wife/opposite party to take steps in accordance with law that may be necessary pursuant to the permission being granted to the petitioner to file the written statement.

Since the suit is a matrimonial suit pending since 2023, the learned trial judge is requested to make an endeavour to dispose of the same as expeditiously as possible, preferably within a period of one year from the next date fixed, without granting any unnecessary adjournment to either of the parties.

With the above observations and directions CO 2090 of 2025 stands disposed of.

CAN 1 of 2025 also stands disposed of.

(Hiranmay Bhattacharyya, J.)