

Court No. 6
(265719)

01.07.2025
(AD 34)
(S. Banerjee)

CO 2322 of 2025

Sumita Acharyya
Vs.
Sanjay Acharyya

Mr. Gouranga Kumar Das

...for the petitioner

As prayed for by the learned advocate appearing for the petitioner, leave is granted to the learned advocate appearing for the petitioner to amend the cause-title of the civil revision application, here and now.

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order dated April 16, 2024 passed by the learned Civil Judge (Jr. Division), Kalyani, Nadia in T. S. No. 230 of 2018. By the order impugned the application filed by the petitioner herein challenging the maintainability of the suit, stood rejected.

Mr. Das, learned advocate appearing for the petitioner submits that the learned Judicial Magistrate, 3rd Court, Alipore initially passed an order of interim maintenance in favour of the petitioner herein and thereafter a final order was passed. The

interim order was challenged before the learned District and Sessions Judge, Alipore and by an order dated August 25, 2015, the learned Additional District and Sessions Judge, 1st Court at Alipore made certain observations. He further submits that a criminal appeal was filed by the petitioner for enhancement of the amount of maintenance and residence which was dismissed on September 15, 2018 and being aggrieved the defendant preferred a criminal revision being CRR before this Hon'ble Court which was disposed of by directing the opposite party to pay maintenance to the petitioner. He thus submits that when several courts have directed maintenance to be paid to the petitioner herein, the instant suit is not maintainable.

From the plaint of the Title Suit No. 230 of 2018 this court finds that the opposite party herein has filed a suit for declaration that the opposite party never married the petitioner and for a decree for temporary and permanent injunction so that the petitioner is not able to enter into the house of the opposite party as his wife. It has been stated in the plaint that there was no marriage between the parties and the parties never stayed under the same room as husband and wife or cohabitated with each other.

The learned trial judge was right in holding that the civil court has jurisdiction to decide all types of civil matters as per Section 9 of the Civil Procedure Code unless such action is expressly or impliedly barred.

After going through the plaint it does not appear to this court that the suit is barred under Section 9 of the Civil Procedure Code.

The learned trial judge was right in rejecting the application raising an objection as to the maintainability of the said suit.

The order impugned does not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

Accordingly, CO 2322 of 2025 stands dismissed without, however, any order as to costs.

(Hiranmay Bhattacharyya, J.)