

Court No. 6
(265719)

27.08.2025
(AD 70)
(S. Banerjee)

CO 2434 of 2025

Sri Vineet Gupta
Vs.
Smt. Puja Gupta

Mr. Bikash Shaw

...for the petitioner

Mr. Sanjib Seth

...for the opposite party

This application under Article 227 of the Constitution of India is at the instance of the husband and is directed against order no. 111 dated June 16, 2025 passed by the learned Additional District Judge, 3rd Court at Howrah in Matrimonial Suit No. 1050 of 2019. By the impugned order the prayer for adjournment to produce DW-2 as witness to face cross-examination, stood rejected.

Learned advocate appearing for the petitioner submits that the DW-2 is the mother of the petitioner and on account of her illness, she could not appear on June 16, 2025 to face cross-examination. He submits that an opportunity be given to the DW-2 to appear on the dock to face cross-examination.

Learned advocate appearing for the opposite party submits that the petitioner is trying to drag the matrimonial suit by praying for adjournments on frivolous grounds. He further submits that

considering the health of the DW-2, the learned trial judge also allowed the petitioner to file an application for examination of DW-2 on commission but the petitioner did not avail of such opportunity. He further submits that the petitioner is also a defaulter in payment of alimony.

Heard the learned advocates for the parties and perused the materials placed.

In course of hearing of this civil revision application the learned advocate for the opposite party hands over a bunch of documents containing order no. 90 to order no. 109. It appears from the bunch of order-sheets that the evidence of the plaintiff's witness was closed on January 24, 2024 and February 23, 2024 was fixed for evidence of defendant's witness. Thereafter several adjournments were prayed for by the petitioner for giving evidence as DW-1. The learned trial judge by an order dated June 7, 2024 fixed July 5, 2024 for evidence of the defendant's witness and in default for argument. On July 18, 2024, the petitioner filed an application under Section 151 of the Civil Procedure Code which was fixed for hearing on August 8, 2024. The learned trial judge by an order dated August 8, 2024 allowed the petition under Section 151 of the Civil Procedure Code with a cost of Rs. 1,000/- and fixed September

4, 2024 for evidence of the DW-1. The evidence of DW-1 was concluded on December 23, 2024 and on that date the petitioner filed a petition praying for an opportunity to produce another witness for giving evidence.

It appears from the order-sheets that the learned trial judge by an order dated January 13, 2025 physically directed the petitioner to file an appropriate petition praying for an order allowing the DW-2 to be examined through commission. However, no application in that regard was filed and the DW-2 appeared on January 15, 2025 physically and she was examined and cross-examined in part on January 15, 2025 and the further cross-examination was deferred on that date on the prayer of the petitioner. Thereafter adjournment was prayed for on medical ground. On February 24, 2025 a prayer for adjournment was made on the ground that the DW-2 being an aged lady, required some time on medical ground. The prayer for adjournment was allowed and March 10, 2025 was fixed for further cross-examination of DW-2. The learned trial judge in the order dated April 9, 2024 recorded that though adjournments was prayed for on medical ground, no document in support thereof was produced. The learned trial judge by an order dated April 22, 2025 allowed the prayer for adjournment and fixed June 4,

2025 for evidence of DW-2 as last chance. On June 4, 2025 again a prayer for adjournment was made which was allowed and June 16, 2025 was fixed for evidence of DW-2 as last chance. On June 16, 2025 again a prayer for adjournment was made and the learned trial judge after taking note of the fact that a direction for expeditious hearing was passed in CO 679 of 2023, rejected the prayer for adjournment upon holding that the conduct of the petitioner shows that there is no proximity to produce the DW-2 as witness in near future due to her prolonged illness and on that ground the prayer for adjournment was rejected.

At this stage it would also be relevant to point out that in spite of an opportunity being given to the petitioner to file an application for evidence of DW-2 on commission, the petitioner did not avail of such opportunity.

This court is, therefore, of the considered view that the petitioner is trying to drag the matrimonial suit. The learned trial judge was right in rejecting the prayer for adjournment. This court, therefore, is not inclined to interfere with the order impugned.

Accordingly, CO 2434 of 2025 stands dismissed.

(Hiranmay Bhattacharyya, J.)