

11.08.2025
Item No.5
PG
Ct. No.446

C.O. 2687 of 2025

**Smt. Maya Sarkar alias Mita Sarkar
Versus
Dr. Samir Sarkar**

Mr. Sounak Bhattacharya
Mr. Sounak Mondal
Mr. Abhirup Halder.....for the petitioner

Mr. Rajdeep Bhattacharya
Mr. Himadree Ghosh.....for the opposite party

1. This revisional application has been filed challenging order no.41 dated 05.07.2025 passed by the learned Additional District Judge, 1st Court, Alipore, South 24-Parganas in MAT Suit No. 9182 of 2015, whereby the application filed by the present petitioner under Order 26 rule 1 read with Section 151 of the CPC has been turned down.
2. It is submitted that a matrimonial suit is pending between the parties and the stage has come to adduce evidence but the petitioner is suffering from severe knee problem and is diagnosed with osteoporosis and hypothyroidism and unable to climb the staircase to the 1st floor where the Court is situated.
3. It is further submitted that she is facing extreme difficulty in climbing stairs and there is no lift facilities at the 1st floor of the trial Court.

4. It is also submitted that as per advice of the doctor, knee surgeries are to be done. However, because of hypothyroidism, the said surgery is postponed for the moment.
5. In view of that, one application was taken out under Order 26 rule 1 read with section 151 of the CPC by the wife/respondent therein to appoint an advocate commissioner for holding witness commission and to take evidence of the wife/respondent therein at her residence. The said application was contested by the husband/petitioner therein on the ground *inter alia* that the residential accommodation is a two storied building and the wife/respondent therein was occupying the 1st floor of the building and for the daily household work, she has to come down to the ground floor regularly.
6. Furthermore, it is stated that wife/respondent has come before this Court for affirming the affidavit and more so, she goes to the petitioner's office therein at Swastha Bhavan, GN 29, Sector-V, Salt Lake, Kolkata-700091 at 3rd and 4th floor by using staircase. Accordingly, by filing the written objection, the husband denied all the contentions raised by the wife.
7. After hearing both the learned advocates, the learned Court refused the prayer in absence of any such material to show

that the wife/petitioner herein cannot be moved from one place to another or that she is confined to bed.

8. Having heard both the learned counsel and on going through the materials on record, the content of application filed under Order 26 rule 1 read with Section 151 of the CPC as well as the written objection filed against the same and the rival contentions raised before this Court the factum of pendency of matrimonial proceeding before the Additional District Judge, 1st Court, Alipore, South 24-Parganas, which is situated at the 1st floor of the Court building is found to be admitted. The medical papers as well as the prescriptions suggest that the petitioner is suffering from osteoporosis and hypothyroidism and having knee problems, which makes her difficult to climb the stairs till the surgery is done in respect of knees. Therefore, it is clear that primarily the present petitioner is suffering from some problem regarding her movement and subject to climbing the staircase after 1st floor.
9. At this stage, in view of the facts and circumstances, without entering into the further intricacies of the case, this Court is of the view that the purpose would be subserved if facilities to some extent be provided to the petitioner to enable her to adduce evidence without any discomfort considering her temporary incapacity.

10. In the circumstances, the liberty is given to the petitioner to adduce evidence from the office of the District Legal Services Authority, South 24 Parganas, Alipore which is situated at the Ground floor of the Legal Aid Building designated for the said purpose.
11. The Secretary, District Legal Services Authority, South 24 Parganas, Alipore is directed to make necessary arrangement to facilitate the present petitioner/wife so that she can adduce evidence from there comfortably.
12. The learned District Judge, South 24-Parganas, Alipore is also directed to take necessary steps to make other arrangement as well as the learned Additional District Judge, 1st Court, Alipore, South 24-Parganas is further directed to fix the date after considering the contentions of both the learned advocates in order to facilitate her to adduce evidence from the office of District Legal Services Authority, South 24 Parganas, Alipore which is situated at the Ground floor of the Legal Aid Building designated for the said purpose.
13. In view of the same, the revisional application is allowed. The order no.41 dated 05.07.2025 passed by the learned Additional District Judge, 1st Court, Alipore, South 24-Parganas in MAT Suit No. 9182 of 2015 is set aside.

14. In view of the direction of the coordinate Bench, the Matrimonial Suit is to be disposed of within a specified time frame, which is already elapsed. Despite this fact, the learned trial Court is directed to take all steps for expeditious disposal in compliance with the direction of the coordinate Bench of this Court.
15. No costs.
16. Department is directed to send a copy of this order to the (1) learned District Judge, South 24-Parganas, Alipore, (2) learned Additional District Judge, 1st Court, Alipore, South 24-Parganas and (3) the Secretary, District Legal Services Authority, South 24 Parganas, Alipore forthwith for taking necessary steps.
17. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(CHAITALI CHATTERJEE (DAS), J.)