

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Uday Kumar

FAT 355 of 2024
With
CAN 1 of 2024

Deblina Ghosh Dastidar
Vs.
Souvik Ghosh Dastidar

For the appellant : Mr. Tapan Dutta Gupta,
Ms. Nagina Begam,
Ms. Puspam Rani Jaiswara

For the respondents : Mr. Victor Dutta

Heard on : July 7, 2025.

Judgment on : July 7, 2025.

Sabyasachi Bhattacharyya, J.:

1. Learned Counsel for the respondent / husband submits that subsequent to the passing of the impugned decree of restitution of conjugal rights passed in favour of the

respondent / husband, the husband filed a suit for divorce.

The first such suit for divorce was dismissed primarily on the ground that the husband has not taken sufficient efforts to bring back the wife.

2. Learned Counsel for the respondent submits that thereafter the husband wrote repeatedly to the wife by several modes but the wife was not willing to come back and the husband is informed that the wife is staying in the United Kingdom.
3. Accordingly, a second suit has been instituted now by the respondent / husband against the appellant / wife on the subsequent cause of action.
4. From the very fact of filing of the present appeal, it is evident that the appellant / wife is dissatisfied with the decree of restitution of conjugal rights and does not want to resume conjugal life with the respondent.
5. On the other hand, the respondent / husband has obviously resiled from his previous position and no longer wants to implement the decree of restitution of conjugal rights, since he himself has filed two successive suits for divorce.
6. Accordingly, no useful purpose would be served in keeping the appeal pending, since not only is the appellant

challenging the decree for restitution of conjugal rights, the husband has himself filed a second suit for divorce which is now pending, thereby clearly expressing his intention not to proceed further with the execution of the decree for restitution of conjugal rights.

7. We are, thus, of the opinion that it is will be a futile exercise to keep both the parties captive in a dead marital bondage and long-drawn legal rigmarole unnecessarily.
8. Hence, in view of the above observations, we decide to take up the appeal itself for disposal along with the application. Since a subsequent second divorce suit has been filed by the husband, it is evident that *animus revertendi* is no longer in existence in the perception of the respondent/husband as well, thereby denuding the very basis of the decree for restitution of conjugal rights. We take judicial note of such subsequent divorce suits by the husband to come to such conclusion.
9. Accordingly, FAT 355 of 2024 is allowed, thereby setting aside the impugned judgment and decree dated August 20, 2024 passed by the learned Additional District Judge, Fast Track Court at Baruipur, District – South 24 Parganas in

Matrimonial Suit No. 83 of 2023 and hereby dismiss the said suit for restitution of conjugal rights. Consequentially, CAN 1 of 2024 stands disposed of as well.

10. There will be no order as to costs.
11. A formal decree be drawn up accordingly.
12. The appellant shall file a certified copy of the impugned decree within a fortnight from date.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)