

D/L - 12
20.01.2025
Court. No. 5
S.Kundu

C.O. 4248 of 2024

**Mrigesh Kanti Nath
Vs.
Joyoti Nath Nee Bala**

Mr. Suddhasatva Banerjee,
Mr. Kaustav Chatterjee,
Ms. Ahanksha Mukerjee,
Mr. Somnath Bhattarchya

...for the petitioner.

Mr. Debabrata Ganguly,
Ms. Debaleena Ganguly,
Ms. Sudeshna Maji

...for the opposite party.

1. The instant revisional application has been filed challenging the order dated 5th December, 2024 passed by the learned Additional District Judge, 13th Court, Alipore in MAT No. 740 of 2023 whereby the learned Court had permitted the written statement filed by the opposite party/wife on 11th November, 2024 to be taken on record.
2. Mr. Banerjee, learned advocate appearing in support of the application, would submit that the learned Court committed irregularity in procedure in accepting the written statement, though the written statement does not comply with the rules of the Code of Civil Procedure 1908.

3. Mr. Banerjee, would submit that the written statement does not bear the signature of the opposite party, the same has not been properly verified and notarised. He would submit that the learned Court ought not to have over looked the aforesaid irregularity and ought to have rejected the written statement.
4. Mr. Ganguly, learned advocate appearing on behalf of the opposite party, would submit though, disputing the contention of Mr. Banerjee that the objections raised by the petitioner are only technical, the Court has ample power to accept the written statement by condoning technical error, if any. He further submits that if this Court is of the view that there are technical errors this Court may grant leave, for the petitioner to correct the same.
5. Having heard the learned advocate appearing for the respective parties and noting the objection raised by the petitioner, I am of the view that the technical objections should not stand in the way of the opposite party from filing the written statement especially in a matrimonial suit. If there are technical objections and if, there has been no appropriate verification of the written statement or if the same has not been affirmed properly, it is always open to the learned Court to grant appropriate leave to rectify such error especially when the trial in the suit is yet to commence.

6. Having regard thereto, I am of the view that though the written statement filed by the opposite party has been taken on record, appropriate leave should be granted to the opposite party to rectify the defects pointed out by Mr. Banerjee in Court today, which are as follows:-
 - 1) The written statement lacks the signature.
 - 2) The written statement lacks the notarisation.
 - 3) The written statement has not been appropriately verified.
7. Having regard thereto, let this revisional application be disposed of with liberty to the opposite party to make a prayer for rectification of the defects as noted above before the learned Court. If such application is filed within a period of two weeks from the date, the learned Court upon due consideration and upon noting that technicalities should not stand in the way of the opposite party being granted an opportunity to file its written statement, shall permit the opposite party to rectify such defects, if any, especially when there is no impediment in accepting the written statement.
8. With the above observations and directions, the revisional application stands disposed of.
9. It is expected that the entire exercise of filing the application and rectifying the defects shall be completed within a period of four weeks from the date

of obtaining server copy of this order as available in the website of this Hon'ble Court.

(Raja Basu Chowdhury, J.)