

JPD-15
Ct No.07
16.06.2026
(SSS)

Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

CO 18 of 2026

Kabita Prasad
Vs.
Rakesh Kumar Choudhury

Mr. Bibek Tarafdar,
Mr. Abhijit Chanda
.... for the petitioner.

Ms. Suman Sehanabis,
Mr. Salok Sah,
Ms. Anwesha Chakraborty
....for the respondent/husband.

1. The supplementary affidavit filed today by the petitioner, containing the certified copy of the impugned orders, be kept on record.
2. Affidavit of service filed today be also kept on record.
3. The present revisional application challenges two orders, respectively dated February 9, 2026 and February 11, 2026.
4. Learned counsel for the petitioner/wife submits that in a suit for restitution of conjugal rights filed by the opposite party/husband, February 9, 2026 was fixed as the date for reconciliation. On the said date, the petitioner/wife could not attend court due to her ailment, for which an application for adjournment, along with a medical document regarding such ailment, was produced by her.

5. Despite the same, the learned Trial Judge rejected the prayer for adjournment and directly fixed the suit for *ex parte* hearing only one day thereafter, i.e. on February 11, 2026.
6. On February 11, 2026, in view of the fact that the petitioner/wife could not appear on that date as well, the entire evidence of the plaintiff/opposite party was permitted to be adduced and the plaintiff's witnesses' deposition was closed, fixing February 19, 2026 for order.
7. It is submitted that the entire procedure adopted by the learned Trial Judge is contrary to law.
8. Learned counsel appearing for the opposite party/husband opposes the revisional application and submits that in view of the conduct of the petitioner/wife, she is not entitled to any benefit of equitable relief from this Court. It is submitted that the suit was repeatedly fixed on the *ex parte* board and was recalled from the said stage subsequently. It is further submitted that the petitioner/wife, by her conduct, has been stalling the hearing of the suit indefinitely.
9. However, even if the petitioner/wife has taken adjournments on earlier occasions, that does not empower the Court to proceed *de hors* the scheme of the Code of Civil Procedure. Furthermore, the petitioner/wife could not have derived any advantage from mere pendency of the suit because

we are apprised that she is not enjoying any interim order of alimony or any other advantage in keeping the suit pending.

10. Even otherwise, the logical step in the event reconciliation failed would be for the court to fix a date of hearing of the suit in the first place and only if one of the parties defaulted in appearance on the said date, to fix the suit for *ex parte* hearing. In the present case, however, the learned Trial Judge directly fixed the matter on the *ex parte* board immediately upon rejecting the application for adjournment filed by the petitioner/wife on the date fixed for reconciliation of the dispute.

11. Apart from the illegality committed in the said fixation of date for *ex parte* hearing outright, without fixation of a prior date for peremptory hearing, the order dated February 9, 2026 is also bad on the other count that strictly speaking, it could not be said that the reconciliation had failed in the matter, only in which event the court would be empowered to fix the matter for hearing.

12. In a matrimonial suit, the prerogative and the bounden duty of the Court is first to explore whether there is any possibility of reconciliation between the parties. In the present case, the petitioner formally made an adjournment application and also produced a medical document

showing her ailment, despite which the adjournment was rejected. The learned Trial Judge, instead of doing so, ought to have fixed a further date for reconciliation and if there was repeated absence of the petitioner even thereafter, then only to fix the suit for hearing. Instead of doing so, the learned Trial Judge not only rejected the adjournment petition at the first instance but also directly fixed the suit for *ex parte* hearing.

13. The method adopted in passing the order dated February 11, 2026 is also shocking. The learned Trial Judge, on a single date, concluded the evidence of the plaintiff/opposite party and closed evidence, without giving any further opportunity to the petitioner/wife to contest the suit.

14. Another facet of the matter cannot be lost sight of.

15. Even though the petitioner/wife filed an adjournment petition on the ground of her ailment on February 9, 2026, the learned Trial Judge fixed the suit itself for *ex parte* hearing only a day thereafter i.e. on February 11, 2026, without granting adequate time to the petitioner/wife to recover from such ailment. Although matrimonial suits should be decided expeditiously, the said dictum does not permit the Courts to proceed in such hot haste so as to bury justice in the process.

16. Thus, both the impugned orders are vitiated by patent abuse of the process of Court as well as jurisdictional error.
17. Accordingly, CO No. 18 of 2026 is allowed on contest, thereby setting aside the impugned orders, being Order no. 16 dated February 9, 2026 and Order no. 17 dated February 11, 2026, both passed by the learned Additional District Judge, Fast Track Court, Cooch Behar in Matrimonial Suit No. 151 of 2024, and reverting the suit back to the stage of reconciliation.
18. The learned Trial Judge shall accordingly fix a further date for reconciliation. However, it will be open to the learned Trial Judge, if the wife further fails to appear on the said date without cogent reason, to fix the suit then first for hearing.
19. If the petitioner/wife abstains from hearing repeatedly even thereafter, it will then be open to the Trial Court to fix the suit for *ex parte* hearing.
20. Needless to say, as a consequence of the above directions, the evidence adduced by the plaintiff/opposite party, oral and/or documentary, shall be expunged from the records.
21. Nothing in the above direction, however, shall preclude the Court from proceeding in due process of law and from permitting evidence to be adduced at the appropriate stage.
22. There will be no order as to costs.

23. Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of requisite formalities.

(Sabyasachi Bhattacharyya, J.)