

**Mat suit 123 of 2022**  
**R-124/22**  
**CNR No. WBDJ 010007522022**  
**Present : Sri Madan Mohan Mishra**  
**JO no. WB00727**

Order no. 22 dated 14.12.23

Parties are represented through their appointed Ld. advocates.

The application filed by respondent/wife on 08.08.2023 under Order IX Rule 7 CPC along with written statement is taken up for consideration.

Heard learned advocates for the parties.

Learned advocate representing respondent/wife submitted that as the respondent/wife was sick for some time a delay has been caused in filing the written statement.

Learned advocate representing petitioner/husband opposed the application of respondent/wife by submitting that respondent/wife willingly and cunningly caused delay in the proceeding firstly by filing application under Order VII Rule 11 CPC and thereafter after a long delay almost after one year of her appearance in the proceeding has filed written statement. If the written statement is accepted a cost be imposed upon the respondent/wife.

Upon hearing learned advocate in the light of the materials on the case record it is found that respondent/wife filed an application under Order VII Rule 11 CPC on 16.02.2023 almost after five months of her appearance in the proceeding on 27.09.2022. The application has been refused by this Court on 29.04.2023. Almost after four months of the rejection of application under Order VII Rule 11 CPC respondent/wife filed the written statement on 08.08.2023 along with the present application under Order IX Rule 7 CPC.

The conduct of the respondent/wife since her appearance in the proceeding suggest that respondent/wife is bent upon delaying the further proceeding of the case. Be that as it may, taking note of the nature of the proceeding being a matrimonial proceeding when the respondent/wife has filed her written statement in the suit I find it fit to decide the suit on merit in lieu of ex-parte.

Accordingly, the application filed by respondent/wife under Order IX Rule 7 CPC on 08.08.2023 is allowed subject to payment of cost of Rs. 1000/- (Rupees one thousand).

The written statement filed by respondent/wife on 08.08.2023 be accepted subject to payment of cost of Rs. 1000/-

To 08.02.2024 for reconciliation and payment of cost.

Dictated & Corrected by me

Additional District Judge,  
3<sup>rd</sup> Court, Darjeeling

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