

Mat Suit No. 285 of 2023

Order No.19

Date : 18/07/2025

Both parties are represented in court with their ld. Advocate on record. Today is fixed for Exparte hearing of the petitioner. Petitioner filed deposition on chief on affidavit u/s 18 Rule 4 of C.P.C. Let it be kept with the case record. At this stage ld. Advocate for the respondent filed one application for vacating the exparte proceeding in this case. Ld. Lawyer submitted that in this case on the last date the respondent could not appear in court due to her illness and she is willing to contest this case. Ld. Advocate further submitted that one opportunity may be given for contesting this suit for her unintentional mistakes.

In reply ld. Advocate for the petitioner strongly oppose the prayer and submitted that this respondent intentionally trying to delay the process of this court. Previously one occasion this court vacated the exparte proceeding vide order dated 05/07/2024, but again she is taking same plea. So the petitioner submitted for rejection of the prayer for vacating the exparte proceeding.

Having regard to the submission of both parties, I am of the view that it is true that conduct of the respondent is not good in the mater of appearance before the court in this case. Previously once this court vacated the exparte proceeding yet again she committed same mistake. It appears that the case is pending from the year 2023. It is also true that rejection of the prayer might invite multiplicity of proceeding and may cause further delay in disposal of this case. Deposition of the petitioner has not yet been recorded so far. The court was vacant for long after retirement of previous PO. It is always desirable that every case should be decided on merit rather than disposed on technical ground. Decision on merit thus finally settle any issue pending before the court. In this situation for the greater interest of Justice prayer for vacating the Ex prate proceeding of this case is allowed.

The exparte proceeding direction given in this case *vide* order No. 18 dated 10/06/2025 is hereby vacated subject to condition that the Respondent/wife will pay a cost of Rs.1000/- to the petitioner.

To **11/11/2025** For evidence of the petitioner. Both parties to come ready.

Additional District Judge,
F.T.C II, Bongaon,
North 24 Parganas.