

Mat suit-2782/21

9.2.2023

Parties file respective hazira.

Record is taken up for passing necessary order in respect of petitions of the respondent/wife dtd. 14.7.2022 regarding rectification of certain typographical mistakes in the written statement filed by the respondent/wife as well as petition praying for stay of the proceedings of the Mat Suit and another petition to admit the prayer to pass an order of stay, both dtd 6.5.22.

I have already hd both sides on last occasions and due to paucity of time on that day order could not be passed.

Perused the entire materials on record and so far as the prayer for rectification of W.S by way of amendment is concerned, the court finds that the prayer is innocuous and mistakes committed were merely inadvertent and typographical and if allowed, shall not change the nature and character of the pleadings.

Though the Id. Counsel appearing on behalf of the husband fall heavily reminding the court the necessity of proper procedure to amend the written statement and that the present application does not fulfill the said requirement, hence cannot be considered.

The court is very much aware of the legal requirement, but at the same time is of the opinion that when time can be saved by relaxing the procedural law a little bit without prejudicing either of the parties, there would be no harm to accept such prayer for amendment by way of an application U/s. 151 CPC.

Accordingly the petition dtd 14.7.22 for certain rectification in W.S dtd. 13.12.2021 be allowed on contest without cost.

The respondent/wife is directed to file rectified W.S within seven days.

So far as the prayer for stay of the Mat Suit is concerned, it has been submitted that Misc. Case U/s. 24 H.M. Act is still pending for decision and the wife is not in a position to file Additional W.S as ordered by this Court due to her financial condition since the husband has not been maintaining her and has not paid any farthing for quite a long time.

Hd. both sides on earlier occasions.

It appears that while praying for time to file Additional W.S, the respondent/wife did not take such plea and subsequently prayed for amendment of the W.S filed earlier and all of a sudden has come up with a prayer for stay of the Mat Suit on the ground of pendency of Section 24 H.M. Act in this case.

Since no order has been passed regarding alimony pendente lite, there cannot be any question to halt the Mat Suit for non payment of alimony amount. That apart, when the respondent/wife could file W.S and subsequently could pray for rectification of some mistake in the W.S and also prayed for time to file Additional W.S as noted above, the court finds the prayer as fancy one and need not to be considered on true spirit of the object of H.M.Act.

Accordingly both the petitions dtd 6.5.2022 concerning stay of the Mat Suit be rejected in limini.

The respondent/wife has not yet filed Addl. W.S and prayed for time again on the last occasion on the grounds stated therein. Hd. Prayer is considered and allowed for best interest of justice.

Fix 21.03.2023 for filling Addl. W.S and rectified W.S positively.

To date for discovery and inspection.

D/corr by me,

4th ADJ, Alipore.

