

**Mat. Suit No. 349/2016**

(CIS-247/17)

Order No.22 dt.12.07.2019.

Both parties are present by filing hazira. Today is fixed for hearing petition dt.11.03.2019. Ld. Lawyer for the petitioner/husband submits that on 11.03.2019, two petitions were filed by the petitioner/husband which are fixed today for hearing but another application was filed by the respondent/wife on 06.08.2018 praying for stay of all further proceedings of the Matrimonial Suit till recovery of arrears of maintenance allowance which is required to be disposed of at first.

Accordingly, said petition dt.06.08.2018 is taken up for hearing. Ld. Lawyer for the husband/petitioner submits that all the maintenance amount has already been paid to the petitioner and in support of his submissions, xerox copy of bank Passbook is filed and as such, said petition has become infructuous and the same is liable to be rejected. Ld. Lawyer for the wife admits that arrear maintenance amount has already been received by the wife and for that reason, he is not pressing the petition dt.06.08.2018. The petition dt.06.08.2018 praying for stay of all further proceedings of the matrimonial suit is being not pressed by Ld. Advocate for the wife, is rejected.

Out of two petitions dt.11.03.2019, application U/o 6 Rule 17 read with Section 151 CPC dt.11.03.2019 filed by the husband is taken up for hearing. Ld. Lawyer for the husband submits that in the plaint, due to typographical mistake in prayer 'A' and in the cause title, it has been wrongly mentioned "Under Hindu Marriage Act, 1955" instead of "Under Special Marriage Act, 1954" which is very formal in nature and as such, plaint is required to be amended. Ld. Lawyer for the wife raises objection. Heard both sides. Considering submissions of both sides and on perusal of the application, it is found that the amendment sought for by the husband/petitioner is very formal in nature and nobody will be prejudiced by this amendment. Accordingly, petition U/o 6 Rule 17 read with Section 151 CPC dt.11.03.2019 filed by the husband/petitioner is allowed on contest. Let the plaint be amended as mentioned in the schedule of amendment of petition U/o 6 Rule 17 read with Section 151 CPC. Petitioner/husband is directed to file the amended plaint by the next date.

Another application U/S 40 of the Special Marriage Act, 1954 read with Order 32A Rule 2 of the Code of Civil Procedure dt.11.03.2019 filed by

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husband/petitioner is taken up for hearing. Ld. Lawyer for the husband submits that in paragraph No.8 of written statement, wife has raised allegation about husband's impotency and other matters and for that reason, it is necessary to hold camera trial of this suit. Ld. Lawyer for the respondent/wife raises objection and submits that it is not necessary to hold camera trial of this suit. Heard both sides. Considering submissions of both sides and on perusal of the petition U/S 40 of the Special Marriage Act, 1954 read with Order 32A Rule 2 of the Code of Civil Procedure dt.11.03.2019 and after going through the written statement, I am of the view that this is a fit case for camera trial as per provision of Order 32A Rule 2 of the CPC. Accordingly, application U/S 40 of the Special Marriage Act, 1954 read with Order 32A Rule 2 of the Code of Civil Procedure dt.11.03.2019 is allowed on contest in respect of evidence of husband and wife only. Evidence of husband and wife will be taken in camera only.

Fix 09.09.2019 for peremptory hearing.

D/c by me

Additional District Judge

2nd Court, Sealdah, South 24 Parganas

ADJ-2, Sealdah

Later

Amended plaint is filed by the petitioner/husband which is kept with the record. Copy is served upon the advocate of the wife.

To date (09.09.2019).

D/c by me

Additional District Judge

2nd Court, Sealdah, South 24 Parganas

ADJ-2, Sealdah