

Mat Suit No-26/2024.
Present: Debapriya Basu.
Judge, Family Court, Jhargram
J.O. Code : WB 00677

Order No. 06.
Dated 23.04.2025.

Today is fixed for order in respect of prayer made by petitioner Tiyashi Mitra Biswas on 16.11.2024.

Record is taken up for order.

Above named petitioner instituted the present suit against her husband Avishek Biswas u/s 13 of H.M Act praying for decree of divorce.

Respondent husband has contesting the suit by filing written statement, cross examining the petitioner and also by adducing evidence on behalf of him.

After completion of evidence date for fixed for delivery of judgment before the Ld. Court of District Judge, Jhargram and Ld. District Judge, Jhargram by order dt. 27.09.2024 was pleased to observe in course of preparing the judgment some clarification on the points of documents as filed by the parties are failed necessary and with such observations the delivery of judgment was adjourned and further date of argument was fixed on 16.11.2024.

On 16.11.2024 petitioner filed the present application stating that she has already submitted several documents before Ld. Court which has not been exhibited and according to her such documents were required to be marked as exhibits in this case to decide the real issues in controversy.

The respondent husband filed written objection against such prayer of the petitioner on 06.12.2024 and according to him the prayer of the petitioner is frivolous and is not tenable in the eye of the law.

It has been argued on behalf of the petitioner that the documents or copies of the original documents which the petitioner is now intends to mark as exhibit inadvertently not filed earlier and the nature of the case or the evidence which has already been adduced by petitioner in this case will not be contradicted by such documents and or in the alternative such documents would in fact corroborate the petitioner evidence which is already on record.

Ld. Advocate for the respondent on the other hand argued that if at this stage the petitioner intends to mark such documents as exhibits, in that event the petitioner would have filed prayer for examining her on recall and only by adducing further oral evidence she has to tender the documents on her behalf for exhibiting such documents.

First of all, the circumstance and stage at which the present petition has been mentioned above. Evidence already recorded and evidence was closed. Argument already heard by the Ld. District Judge, but, subsequently, due to set up of this Family Court, Jhargram, Ld. District Judge was pleased to transfer the instant case to this Family Court for disposal. Argument is required re-heard by this court. Further, it appears from the record that Hon'ble High court, Calcutta has already been pleased to direct this court to dispose of this case early.

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Now the question arises as to whether under the given circumstance, this court would bank upon the technicalities as to whether for marking the documents filed by the petitioner requires further prayer of recall of P.W.1 or whether this court would avoid such technicalities at this stage.

At the time of hearing Ld. Advocate for the petitioner clearly highlighted in detail before this court that petitioner has already adduced evidence in detail regarding the fact and circumstance of this case and the documents which the petitioner now intends to exhibit would only corroborate the petitioner oral evidence and nothing else. Even, at the time of such hearing Ld. Advocate for the respondent remain present in court and he also did not contend that the petitioner did not adduce oral evidence on such points or on being asked Ld. Advocate for respondent also failed to contradict that the documents which petitioner intends to exhibit are contradictory to the evidence adduced by the petitioner. However, it may be mentioned here that Ld. Advocate for respondent mentioned that certain documents and facts of such documents have not been mentioned in the petition/plaint of this case by the petitioner and hence, such documents cannot be entertained.

This court after going through the evidence on record in its entirety clearly finds that the documents which the petitioner intends to exhibits would only corroborate the petitioner's oral evidence on record. Whether the petitioner oral evidence or the intended documents exhibited have been mentioned in plaint or not and whether such oral evidence can be taken into account if such facts and circumstance have not been mentioned in the petition/plaint is a separate question and is to be decided at the time of final disposal of this case.

Under the above mentioned facts and circumstances, this court find its appropriate to allow the petitioner's petition dt. 06.12.2024 and mark the documents as Exhibits as prayed for. But, after objection by the Respondent. Accordingly, the documents filed be marked as Exhibit as under :-

(a) Exbt. P-4- Receipt of GD. No. 70 dt. 02.03.2020 of Nischinda P.S along with a copy of G.D. marked as Exbt. P-4.

(b) Exbt. P-5 collectively- The Medical prescriptions and documents of Tiyashi Mitra (total 12 sheets) marked as Exbt. P-5 collectively.

(c) Exbt. P-6- Medical documents (Homeopathy) of Tiyashi Mitra (2 sheets).

(d) Exbt. P-7- ICIC Bank statement of Tiyashi Mitra.

(e) Exbt. P-8 HDFC Bank statement of Tiyashi Mitra for the period from 03.11.2014 to 01.01.2020.

(f) Exbt. P-9- Tax invoice of in name of Tiysahi Mitra of South Indian Jewelers.

(g) Exbt. P-10- Receipts of SKYLARK Packers and movers.

(h) Exbt. P-11- Certified true copy of formal FIR and FIR in respect of Jhargram P.S. Case No. 215/22.

(i) Exbt. P-12- Car purchase cash Memo in the name of Tiyashi Mitra dt. 02.07.2015

(j). Exbt. P-13- Certified copy of Application in C.R.R. No. 4148 of 2022 of Hon'ble High Court, Calcutta.

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(k) Exbt. P-14- Searching slip issued by Bench Clerk Judicial Magistrate Jhargram
21.11.2024

(l) Exbt. P-15- Certified copy of order sheets and petition for interim maintenance in
M.R. Case No. 12 of 2020 in the court of Ld. CJM., Jhargram

(m) Exbt. P-16- Certified copy of order sheets along with complaint petition of complaint
case No. 01 of 2021 in the court of Ld. CJM, Jhargram.

(n). Exbt. P-17 collectively- Two original Passbooks of Tiyashi Mitra of SBI SME
Branch JODA showing transaction for period from 31.01.2013 to 18.11.2019.

According to this, Ld. Court as these documents have been marked exhibit on behalf
of the petitioner at the stage of delivery judgment. Hence, it would be appropriate to give an
opportunity to the O.P/respondent to cross examine the petitioner P.W.1 on the points of
exhibited documents only.

Hence, fix **08.05.2025** for further cross examination of P.W1 as observed above, I.d
for argument.

Dict. & Corrtd. by me .

Judge, Family Court,
Jhargram.

Judge, Family Court,
Jhargram.

