

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.2627 of 2019

Manika Kundu

..... Petitioner.

-Versus-

Subhash Kundu

..... Respondent.

CORAM : HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner : Mr. P. A. S. Pati, Advocate

For the Respondent : Mr. J. N. Upadhyay, Advocate

Order No.10

Date: 25.02.2022

I.A. No.1086 of 2022:

This case is taken up through video conferencing.

The present interlocutory application has been filed on behalf of the petitioner for staying further proceeding of O.S. no.559 of 2018 pending in the court of learned Principal Judge, Family Court, Jamshedpur or to extend operation of the interim order dated 20th September, 2019 passed by this Court in the present writ petition, which was deemed to be vacated by the learned court below vide order dated 24th February, 2021 (Annexure-2 to the interlocutory application) in view of the judgment of the Hon'ble Supreme Court rendered in the case of ***Asian Resurfacing of Road Agency Private Limited & Anr. Vs. Central Bureau of Investigation, reported in (2018)16 SCC 299.***

Learned counsel for the petitioner, while referring to the interim order dated 20th September, 2019 passed by a Bench of this Court, submits that the issue involved in the present writ petition was elaborately dealt with in the said order and on finding a prima facie case in favour of the petitioner, further proceeding of O.S. no.559 of 2018 was stayed. Learned counsel for the petitioner further submits that during the intervening period, no effective hearing has been done by the learned Principal Judge, Family Court, Jamshedpur due to outbreak of Covid-19 pandemic. The petitioner also could not come to Ranchi due to outbreak of Covid-19 pandemic and family problem. As such, she could not take step for filing an appropriate application to get the operation of the interim order dated 20th September, 2019 extended.

Learned counsel for the respondent submits that the Principal Judge, Family Court, Jamshedpur is rightly proceeding further with O.S. no.559 of 2018, as the said suit requires expeditious disposal. Moreover the petitioner is also not appearing in the said suit. Under the said circumstances, the interim order dated 20th September, 2019 passed by this Court may not be extended.

Heard learned counsel for the parties.

On perusal of the interim order dated 20th September, 2019 passed in the writ petition, it appears that this Court has considered that two suits filed for divorce are pending in two different Courts situated in two different States. Matrimonial Suit no.86 of 2017 was filed by the petitioner (wife) under the provision of Hindu Marriage Act, 1955 on 18th December, 2017 in the court of learned Additional District Judge (First Court), Jhargram (West Bengal), whereas the respondent (husband) filed O.S. no.559 of 2018 under the provision of Special Marriage Act, 1954 on 13th September, 2018 in the court of learned Principal Judge, Family Court, Jamshedpur. Hence, this Court thinks it proper to pass an interim order in this case afresh, staying further proceeding of O.S. no.559 of 2018 so as to avoid multiplicity of legal proceedings between the same parties.

Accordingly, further proceeding of O.S. no.559 of 2018, pending in the court of learned Principal Judge, Family Court, Jamshedpur, shall remain stayed till further order of this Court.

I.A. No.1086 of 2022 is, accordingly, disposed of.

W.P.(C) No.2627 of 2019:

Learned counsel for the respondent prays for and is allowed four weeks' time to seek instructions and file counter affidavit.

Put up this case under the heading "**For Admission**" after four weeks.

(Rajesh Shankar, J.)