

**HIGH COURT OF TRIPURA  
AGARTALA**

**FAO No. 03 of 2022**

**Smti. Jamuna Debnath**

**.....Appellant**

**Vs.**

**Shri Biplab Nath and 2 Ors.**

**.....Respondent**

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For Appellant(s) :Mr. S Lodh, Adv.

For Respondent(s) :Ms. R Purkayastha, Adv.

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**BEFORE  
HON'BLE MR. JUSTICE ARINDAM LODH  
HON'BLE MR. JUSTICE S. D. PURKAYASTHA**

**Order**

**30.11.2023**

Heard Mr. S Lodh, learned counsel appearing for the appellant and Ms. R Purkayastha, learned counsel appearing for the respondents.

This is an appeal under Order XLIII Rule 1(d) of the CPC, 1908 challenging the impugned order dated 07.03.2022, delivered in Civil Misc. No. 63 of 2019 arising out of T.S.(DIV) 37 of 2019, whereby the learned District Judge, North Tripura, Dharmanagar has rejected the prayer of the appellant made under Order IX Rule 13 CPC for setting aside the ex-parte judgment and Decree dated 02.07.2019.

The respondent-husband had filed a suit for dissolution of marriage with the appellant. During the proceedings, the evidences were recorded on behalf of the plaintiff-respondent husband and decree has been passed ex-parte dissolving the marriage of the respondent-husband with the wife-appellant.

It is submitted that the first date was fixed for appearance of the wife-appellant, but that day being a holiday, she couldn't appear. However, next date was fixed and on that date itself the evidence was recorded and the decree was passed.

In this appeal, the appellant-wife has taken the plea that she had not been given reasonable opportunity to defend her case. After perusal of the order, we find that this is a fit case to remit the matter to the court of Ld. Judge, Family Court, Dharmanagar, North Tripura in the interest of justice. Accordingly, the matter is remitted to the court of Ld. Judge, Family Court, Dharmanagar, North Tripura for deciding the matter expeditiously.

It is made clear that the Ld. Judge, Family Court shall provide all opportunities to the wife-appellant to defend her case and she be given the opportunity to file written statement, if not filed already. Also the husband-appellant be given liberty to adduce his evidence afresh.

In terms of the afore-noted, the matter is remitted to the court of Ld. Family Judge, Dharmanagar, North Tripura.

The appeal stands disposed of.

**JUDGE**

**JUDGE**

**SATABDI DUTTA** Digitally signed by SATABDI DUTTA  
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