

21.09.2020
Srimanta/Mithun
Sl. No. 39
Ct. No. 23

IA No. : CAN/1/2020
in
CO/1204/ 2020
[Via Video Conference]

Provat Kumar Mitra
-Vs.-
Aarti Agarwal & Ors.

Mr. D.Gomes, Adv.,
Mrs.Roopa Sheth Mitra ...for the petitioner.

This is an application under Article 227 of the Constitution of India filed by the plaintiff/petitioner of Title Suit No.4 of 2006 praying for reconstruction of record pending before the learned Civil Judge, Senior Division at Sealdah. It is found from the application as well as the documents filed by the plaintiff that Title Suit No.4 of 2006 was filed by him under Clause 4 of the inter parties Partition Deed praying for preemption of a part of his family dwelling house. In the said suit, defendant Nos.1, 2 & 3 filed written statement on 2nd June, 2008, subsequently the record was misplaced. At present, as the record is not found, the petitioner cannot proceed with his suit.

It is submitted by the learned advocate for the petitioner that the petitioner is aged about 85 years. Being a senior citizen, it is necessary to adjudicate the lis filed by him at an early date. However, due to the non-availability of the record the trial of the suit cannot be proceeded with.

The certified copies of the order sheet of the said suit are filed with the instant application. The copies of the plaint and the written statement are also with the record of the instant application. If the Court

does not find out the record of the said suit, the same can be reconstructed under the appropriate provision of the Civil Rules and orders.

Therefore, the instant application is disposed of directing the Civil Judge, Senior Division, Sealdah to take step for reconstruction of the records from the copies of the order sheet, copies of the plaint and the written statement submitted by the petitioner before the said court within a fortnight by a put up petition. Before reconstruction of record, the learned Judge shall serve a notice to the learned Advocate for the defendants to admit the copies of the plaint and the written statement in the court below. On such admission of both the parties, the record shall be reconstructed within the timeframe by the learned trial Judge. The learned Trial Judge shall then proceed with the hearing of the suit in accordance with the law expeditiously. The instant application is, thus, disposed of, however, without costs under Clause 4 of deed of partition.

The petitioner would be permitted to take back the original certified copy of the order sheet that has been filed with the application under Article 227 of the Constitution of India.

(Bibek Chaudhuri, J.)