

20.01.2021
Sl. No. 28
srm

C.O. No. 125 of 2021

Bhola Nath Ghosh

Vs.

**Ramesh Chandra Ghosh, represented by
Smt. Sabita Ghosh & Ors**

Mr. Prabir Kumar Misra,
Mr. Shibendra Nath Chattopadhyay,
Mr. Priyam Misra

...for the Petitioner.

This revisional application has been filed for a direction upon the Sheresthadar in the court of the learned Civil Judge (Junior Division), Bidhannagar, Mayukh Bhavan, 2nd Floor, Salt Lake City, to transmit the lower court records pertaining to Title Suit No.372 of 2012 pending before the learned Civil Judge (Junior Division), Bidhannagar. This revisional application is the second one filed on the selfsame cause of action, challenging the inability of the learned lower Appellate Court at Barrackpore to dispose of Title Appeal No.16 of 2018 on the ground that the lower court records of the Title Suit had not been received by the said Court.

Earlier, the petitioner filed C.O. No.3843 of 2019 praying for similar reliefs. C.O. No.3843 of 2019 was disposed of on November 20, 2019 requesting the learned Additional District Judge, 1st Court, Barrackpore, North 14-Parganas before whom the Title Appeal was pending, to make all endeavour to see

that the LCR in respect of Title Suit No.372 of 2012 be sent by the Court of the learned Civil Judge (Junior Division), 3rd Court at Sealdah expeditiously.

It is now submitted by the learned Advocate for the petitioner that the case records have been transferred to the Court of the learned Civil Judge (Junior Division), Bidhannagar, which is situated at Mayukh Bhavan and the records are lying before the said Court.

Despite there being an order of this Court requesting the concerned Judge taking the title appeal to make serious efforts to ensure that the LCR of Title Suit No.372 of 2012 was received, it appears to the Court that instead of making an effort to call for the LCR, as requested by this Court, the learned lower appellate court, before whom the title appeal is now pending, has fixed a date for receiving the LCR and also fixed a date for certified copy of the order of the High Court. Orders passed by the learned Additional District Judge, Fast Track 2nd Court at Barrackpore are not in sync with the order of this Court. First and foremost it was the duty of the lower appellate court to accept the server copy of the order instead of asking for certified copies and take measures to ensure that the LCR was transmitted by the Sherestadar of the concerned Civil Court. The title appeal has been pending for almost three years because the LCR could not be received and there has been no

progress at all. This Court takes serious view of the matter and directs the learned lower appellate court to immediately ensure that the Sherestadar of the Civil Court sends the LCR to the said Court within a period of one month from the date of communication of this order.

The learned lower appellate court will act on the basis of the server copy of this order as also the learned Advocate's communication which will be filed in court.

This Court has not made any observation on the merits of the title appeal and the appeal will be heard expeditiously on its own merits.

The learned Advocate-on-record for the petitioner is directed to serve copy of this revisional application upon the learned Advocate for the opposite parties appearing in the learned Court below along with a server copy of this order within a week from date.

This revisional application is, thus, disposed of.

There will be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)