

02.03.2021
Ct. 19
D/L 9
ab

C.O. 294 of 2021
(Via Video Conference)

Kalpana Banerjee & Ors.
-Vs-
Ashok Agarwal & Ors.

Mr. Biswajib Ghosh,
Mr. S. Chakraborty,

... for the petitioners

Mr. Rahul Karmakar,

... for the opposite party Nos. 1 to 3

Mr. Rohit Das.
Mr. Kishwar Rahman,

... for the opposite party No. 4

This revisional application has been filed against an order dated 4th March, 2020 passed by the learned Civil Judge (Junior Division), 3rd Court at Alipore in Title Suit No. 1349 of 2019. By the order impugned, the learned Court below rejected an application under Section 151 of the Code of Civil Procedure filed by the plaintiffs/petitioners to accept service upon the defendants/opposite party nos. 1 to 3 as service in respect of the defendant No. 4.

It was the contention of the plaintiffs/petitioners in the learned Court below that the defendant No. 4 was the constituted attorney of the defendant Nos. 1 to 3 and as such, service upon the principal should be considered as a service upon the agent. Today, the defendant No. 4 has entered appearance and it is submitted that the defendant No. 4 is not only an agent

but also purchased the property from the defendants/opposite party Nos. 1 to 3.

The revisional application was only with regard to non-acceptance of service upon the defendant No. 4. Once the defendant No. 4 has entered appearance before this Court and the defendant Nos. 1 to 3 have appeared before me today and submit that they have no interest in the suit, the question of whether the service upon the defendant Nos. 1 to 3 should be accepted as service upon the defendant No. 4 is no longer relevant in view of the appearance of the defendant No. 4.

A copy of the revisional application, which contains a plaint, has been handed over to the learned advocate on record for the defendant No. 4, in Court today. Thus, service is ready with regard to the suit. The learned Trial Judge will now proceed in accordance with law as all the defendants have been served.

The revisional application is allowed.

However, this Court has not gone into the merits of the case and the learned Court below shall proceed independently.

Liberty is given to the petitioners to file an appropriate application before the learned Court below to correct the address of the defendant No. 4 in the cause title of plaint.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(**Shampa Sarkar, J.**)