

10.03.2021
Court No. 19
Item No.08
CP

C.O. 444 of 2021

Tasiruddin Sk.
vs.
Ganesh Chandra Das & anr.

Mr. R. Banerjee
Mr. Shibasis Chatterjee
Mr. Sandip Kundu

.....for the petitioners.

This revisional application has been filed by a stranger to a proceeding in Original Suit No. 28 of 2019, whose application under Section 151 of the CPC praying for recalling of an ex parte order dated June 10, 2014 passed in L R Misc. Case No.14 of 2013 was rejected. By the order dated June 10, 2014, Pre-emption was allowed.

The petitioner alleges that on coming to know that a fraud was played before the learned court below in obtaining such ex parte order/decreed, he filed an application under Section 151 of the CPC requesting the court to invoke the inherent power and recall the order. The learned court below by the order impugned dated July 19, 2019 rejected the application on the ground that the inherent power of the court could not be exercised to recall a particular order when the court had become functus officio, the proceedings had come to an end and the order was

passed disposing of the suit on merits. Moreover it has been further recorded that the execution was also complete as per the report of the bailiff. Thus the decree has also been satisfied.

I do not find any illegality in the order impugned. The petitioner had the right to challenge the said order/decreed in the appropriate forum in accordance with law, if such proceeding is initiated by the petitioner, shall be decided and dealt with in accordance with law on its own merits.

The revisional application is disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible subject to compliance of all usual formalities.

(Shampa Sarkar, J.)