

06.08.2021
(S/L-25)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 778 of 2020

Kabita Ghosh
-Vs-
Nitai Swarnakar & Anr.

Mr. Rwitendra Banerjee,
Mr. Devdutta Pathak,
..... For the Petitioner.

The revisional application under Article 227 of the Constitution of India is directed against order no. 28 dated December 18, 2019 passed by the learned Civil Judge (Junior Division) Ghatal in J. Misc. Case No. 23 of 2016.

The petitioner in the said misc. case filed an application praying that evidence of one of her witnesses namely Dr. Sukhendu Bikash Maity may be recorded on commission on the ground of illness of the said witness. The petitioner in support of her said prayer relied on a medical certificate issued by Dr. Sukhendu Bikash Maity, the witness himself.

The learned Trial Judge by the order impugned has dismissed the said application.

The learned Trial Judge has rightly refused to exercise his discretion in allowing the said prayer of the petitioner on the basis of such a self-serving document.

This Court, therefore, does not find any reason to interfere with the order impugned.

The revisional application is devoid of any merit.

C.O 778 of 2020 is dismissed without any order as to costs.

This order, however, will not prevent the petitioner to apply for recording of evidence of the said witness on commission on the basis of appropriate material.

Mr. Banerjee submits that the said witness is quite aged, as such, his evidence is required to be recorded expeditiously, considering the said submission, it is observed that if any application for recording of the evidence of the said witness on commission is filed by the petitioner, the learned Trial Judge shall make all endeavour to dispose of it expeditiously.

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

(Biswajit Basu, J.)