

20.04.2021
Court No. 19
Item no.09
CP

C.O. 702 of 2021

Sekh Abdur Rouf
vs.
Sekh Sakirulla & ors.

(via video conference)

Mr. Rajdeep Bhattacharya

.....for the petitioner.

This revisional application arises out of an order dated March 3, 2021 passed by the learned Civil Judge (Senior Division), 1st Additional Court, Burdwan in Title Suit No. 42 of 2015.

By the order impugned, the petitioner's application under Section 151 of the CPC was rejected. By the said application the petitioner/defendant wanted to recall DW1 as a witness in order to file and prove certain documents. In the application the petitioner submitted that the plaintiffs had sold out the properties in small portions to other persons and the alleged deeds were required to be adduced in evidence.

The learned court below came to the finding that the suit was instituted on May 22, 2015 and the defendant entered appearance on June 26, 2015. The written statement was accepted on February 6, 2016. Evidence was adduced. The suit was fixed for

arguments on August 29, 2017. An application was filed by the petitioner on October 25, 2017 for shifting the case record from argument and the defendant was allowed to adduce evidence in the form of DW4, DW5 and DW7. Further evidence of DW1 was also adduced on recall and the documents were marked as Exhibits F to M2. DW7 was also re-examined and for the second time the suit was fixed for arguments. Various applications under Section 151 were filed by the defendant which were withdrawn.

The defendant got opportunity to adduce evidence on two occasions and also on recall. The authorised person of the ADSR, Galsi was also examined by the defendant in support of his contention.

Thus the learned court found that adequate opportunity was given to the defendant to adduce evidence and produce all documents. All such documents have already been marked as exhibits. The authorized representative of the registry office was also examined by the defendant and, as such, nothing further remained to be submitted. Allowing the application would amount to re-opening the entire evidence and trial of the suit at the stage of arguments.

I have gone through the application filed under Section 151 of the CPC. A vague reference has been made to several sales without any date, particulars or names of the vendor and vendee which the defendant wanted to produce before the court. It is not a case that a particular deed had escaped the attention of the defendant or was not within the knowledge of the defendant and the same could not be adduced in evidence earlier and was crucial for the defendant's case. The application only contains an omnibus prayer and the pleading that the defendant may be allowed to recall himself and produce documents but the particulars of the documents have not been mentioned without necessary particulars.

Under such circumstances, I do not find any irregularity in the order impugned. The order impugned is not interfered with.

The revisional application is dismissed. 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.)