

08,DL,Ct.18
14.01.2021
AJ.

**C.O. 1339 of 2019
with
C.A.N. 1 of 2019 (Old C.A.N. 7236 of 2019)
C.A.N. 2 of 2020**

**Sri Indranil Saha
-Vs-
Smt. Sipra Saha**

Mr. Devajyoti Barman,
Ms. Sanjukta Basu Mallick.
.....for the petitioner.

Mr. Kushal Chatterjee,
Mr. Iftekar Munshi.
.....for the opposite party.

**C.A.N. 1 of 2019 (Old C.A.N. 7236 of 2019)
C.A.N. 2 of 2020**

This is an application for vacating the interim order passed in the present revisional application on April 09, 2019.

Instead of taking up the hearing of the said application, by consent of the parties the revisional application is taken up for disposal.

Heard Mr. Barman, learned counsel for the petitioner and Mr. Chatterjee, learned counsel for the opposite party. Perused the materials-on-record.

The opposite party is the widow and the executrix of the alleged last Will and Testament of one Karuna Kanta Saha.

The opposite party upon the death of her husband applied for grant of the probate of the said Will which being objected by one of the sons of the executor, the petitioner herein, became contentious and is pending before the 13th Court of the learned Additional District Judge at Alipore, district 24-Parganas (South) being Original Suit No. 02 of 2014.

The opposite party in the said suit on June 18, 2018 filed an application for recall of P.W.2.

The opposite party sought adjournment on March 6, 2019 a date fixed for hearing of the said application but the learned Trial Judge vide Order no. 48 after refusing the said prayer of the opposite party suo motu allowed the said application by the order no. 49 of the selfsame date i.e. March 06, 2019 in the absence of the opposite party.

The said order no. 49 is under challenge in the present revisional application.

The order impugned is bereft of any reason and is set aside on the said ground alone.

C.O.1339 of 2019 is disposed of with a direction upon the learned Trial Judge to decide the said application afresh.

It is made clear that this Court has no occasion to go into the merit of the said application. The learned Trial Judge is free to decide the same expeditiously in accordance with law.

In view of the disposal of the revisional application, the connected application for vacating the interim order being C.A.N. 7236 of 2019 has become infructuous and is disposed of accordingly.

The application for urgency being C.A.N. 2 of 2020 also stands disposed of.

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.)