

07,Ct.18
04.10.2021
AJ.

C.O. 1414 of 2021
(Via Video Conference)
Sri Subrata Barman
-Vs-
Sri Arun Kumar Mitra

Mr. Debasis Kar,
Mr. Husen Mustafi.
....for the petitioner.
Mr. Kaushik Dey.
.....for the opposite party.

The plaintiff in a suit for declaration is the petitioner of the present application under Article 227 of the Constitution of India which is directed against Order No. 47 dated July 14, 2021 passed by the 2nd Court of the learned Civil Judge (Junior Division) at Barackpore, District 24-Parganas (North) in the said suit being Title Suit No. 250 of 2014.

The evidence of the petitioner was closed by the order dated September 25, 2018.

The petitioner on November 15, 2018 filed an application for recalling the said order.

The learned Trial Judge by the order impugned has dismissed the said application holding that enough opportunity was given to the petitioner for adducing evidence.

The defendant/opposite party in the connected suit is proceeding with a counter-claim for a decree of eviction of the petitioner from the suit property.

Considering the scope of the suit as well as the counter-claim thereto and for the ends of justice, this Court is inclined to give a last chance to the petitioner to adduce evidence, as such, the order impugned is set aside.

The petitioner is permitted to tender his evidence-in-chief as well as the documents, if there be any, relied on by him on October 07, 2021, the next date fixed in the suit; in default, the evidence of the petitioner would be closed.

Mr. Kaushik Dey, learned advocate appearing on behalf of the opposite party submits that the cross-examination of the petitioner shall also be concluded on the said date itself. The petitioner shall offer him for the said cross-examination on the said date.

In the event the learned Trial Judge, for any unavoidable circumstances, is unable to record the said evidence on the said date, it must be recorded on the following available working day of the Court below.

The learned Trial Judge is requested to make all endeavour to dispose of the said suit expeditiously.

C.O. 1414 of 2021 is disposed of with the above terms without any order as to costs.

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.)