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24.08.2021
TN

CO No.3283 of 2005

Sri Ramjee Singh
Vs.
Smt. Lalmoni Pandey and another

Mr. Tarak Nath Halder

.... for the petitioner

Mr. S. E. Huda,
Mr. A.K. Rai

.... for the opposite parties

Re: CAN 2524 of 2020

The present application has been filed for addition of the sons and daughter of the deceased opposite party no.2, late Sri Udho Pandey alias Uday Narayan Pandey. Since one of the heirs of the deceased-opposite party, being Smt. Lalmoni Pandey, the wife of the said deceased, is already on record, the children of the deceased opposite party (who are his only remaining heirs and legal representatives) are required to be added as parties to the revisional application for complete and efficacious hearing of the same.

Accordingly, CAN 2524 of 2020 is allowed, thereby directing the present applicant nos. 2(a), 2(b),

2(c) and 2(d) to be added as opposite parties in place and stead of the said deceased opposite party no.2.

The learned advocate-on-record for the petitioner is granted leave to carry out necessary consequential amendments in the cause-title of the revisional application during the course of the day.

In view of the appearance of learned counsel for the added opposite parties, no further service is required.

CAN 2524 of 2020 is treated to be on the day's list on the consent of the parties and is disposed of accordingly.

The revisional application is now taken up for hearing.

Re: CO No.3283 of 2005

By the impugned order, the trial court has rejected an application filed by the defendant/tenant/petitioner for affixing a grille gate in front of the 'tenanted premises'.

The premise on which such application was rejected was that there is dispute as to the legality of such construction inasmuch as the opposite parties-landlords have alleged that the verandah in front of the originally tenanted room has been constructed unlawfully by the tenant without the permission of the

landlord. Such contention, of course, has been disputed by the tenant.

It is apparent from the application under Section 151 filed by the tenant/petitioner in the court below for permission to affix a grille gate that no immediate urgency has been made out at all to occasion the need to fix a grille gate all on a sudden. Moreover, since the legality of construction of such verandah and/or the possession of the verandah by the petitioner are disputed, those questions are to be adjudicated at the hearing of the suit, as the said alleged construction has been taken as a ground for eviction in the suit as well.

Thus, the trial court was justified in refusing to grant such permission as sought by the petitioner at this stage.

Accordingly, CO No.3283 of 2005 is dismissed on contest, without any order as to costs.

The trial court is requested to expedite the hearing of the suit and to finally dispose it of positively within a period of one year from the date of communication of this order to the court below.

It is further made clear that the merits of the respective contentions of the parties in the suit have not been entered into by this court. It will be open to the trial court to decide all questions raised by the

parties on evidence at the time of trial, without being influenced in any manner by any of the observations made above.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)