Item No. 23

In The High Court At Calcutta
Civil Revisional Jurisdiction
(via video conference)

03.02.2021
Ct-19

C.O. No. 1543 of 2020
Chandan Kumar Roy & Anr.
v.
Raja Hussain & Anr.

Mr. Asit Kumar Bhattacharyya
... for the petitioners.

None appears on behalf of the opposite parties despite service.

In the suit for specific performance of contract pending before the learned Civil Judge(Senior Division), 3rd Court at Alipore being Title Suit No. 107 of 2020, the petitioners filed an application under Section 151 of the Code of Civil Procedure for acceptance of the requisite stamp duty for enforcement of the original agreement which was entered into by the parties on a stamp paper valued at Rs. 10/-. The learned Court below rejected the application showing that the e-Assessment Slip filed by the petitioners did not reflect that the same was endorsed by the registering authority. As the prevalent system followed now a days is that for registration of any property, the stamp duty is assessed and electronically generated assessment slip is made available to the party.

The stamp duty can also be deposited electronically. The petitioners have produced a similar e-Assessment Slip which was not entertained by the learned Court below. The said e-Assessment was valid upto March 13, 2020. The said e-Assessment Slip has now become invalid and the petitioners cannot rely upon the same due to lapse of time.

I do not find from the record whether the defendants had any objection to the said e-Assessment. Under such circumstances, the revisional application is disposed of granting liberty to the petitioners to file an appropriate application with the current evaluation/assessment of stamp duty issued by the authorities either electronically or physically and pray for acceptance of the same in accordance with law. The learned Court below shall decide the matter in terms of the provisions of Section 35 of the Indian Stamp Act, 1899. It is the duty of the Court to take a decision as to whether an agreement which was not properly stamped could be relied upon in the proceeding under the provisions of Section 35 of the Indian Stamp Act and under what circumstances the same could be accepted or not accepted.

If such application is filed the same will be disposed of expeditiously.

The revisional application being CO No. 1543 of 2020 is disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order be given to the parties on priority basis, if the same is applied for.

Sh **(Shampa Sarkar, J.)**