

11.01.2021
Sl. No. 12
srm

C.O. No. 1674 of 2020
Biswanath Ghosh
Vs.
Sri Rabindra Nath Ghosh & Ors.

Mr. Siddhartha Sarkar

...for the Petitioner.

This revisional application has been filed by the plaintiff in Title Suit No.12 of 2002. The petitioner is aggrieved by an order dated March 12, 2020 passed by the learned Civil Judge (Senior Division), 3rd Court at Alipore, South 24-Parganas. By the order impugned, the learned Court below allowed the defendant No.2(a) to adopt the written statement and additional written statement filed on behalf of the defendant No.2. The defendant No.2(a) is the heir of the deceased, defendant No.2. The defendant No.2(a) was brought on record by an appropriate substitution.

The learned Advocate for the petitioner submits that the suit was fixed for *ex parte* hearing against both the defendant Nos.1 and 2(a). At a belated stage, the defendant No.2(a) prayed before the Court that the order fixing the suit for *ex parte* hearing against the said defendant should be set aside. Mr. Siddhartha Sarkar further submits that although the defendant No.2(a) filed the *vakalatnaka*, the defendant No.2(a)

did not ever contest the suit and for such reasons the suit had been fixed for *ex parte* hearing even against the defendant No.2(a).

On perusing the applications filed by the defendant No.2(a), the learned Court below was satisfied that as the defendant No.2(a) had submitted that the said defendant would adopt the written statement and the additional written statement already filed by the deceased defendant No.2, the said defendant had shown clear intention of contesting the suit and as such the learned Court below allowed the applications for vacating the order for *ex parte* hearing of the suit as also the show cause filed by the said defendant and the defendant No.2(a) was allowed to adopt the written statement and additional written statement filed by the defendant No.2.

As the written statement and the additional written statement are already on record and nothing new has been added to or subtracted from the written statement already filed, I do not find that any prejudice has been caused to the petitioner/plaintiff by the order impugned. The learned Court below has exercised its discretion which does not call for any interference.

The revisional application is, thus, dismissed.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)