

01.04.2022
Item No.07
Court No.18
AJ.

C.O. 54 of 2022

Sri Shyamapada Bid
-Vs-
The Union of India & Ors.

Mr. Arup Krishna Das.
....for the petitioner.

The order proposed to be passed in the present application under Article 227 of the Constitution of India would not cause any prejudice to the opposite parties as such, service of notice of the present application upon the said opposite parties is dispensed with.

The petitioner was the plaintiff of Money Suit No. 08 of 2019. The plaintiff in the said suit *inter alia* prayed for a decree of compensation of Rs.1,85,00,000/- (Rupees one crore eighty five lakhs) against the defendants.

The 2nd Court of the learned Civil Judge (Junior Division), Asansol, District – Paschim Burdwan has dismissed the said suit by the judgment dated October 03, 2020.

Mr. Das, learned advocate for the petitioner submits that the judgment dismissing the said suit although has been pronounced but no decree has yet been drawn up for want of payment of required court fees.

He further submits that in the suit the petitioner had filed an application praying exemption to pay court fees, the learned Trial

Judge although did not pass any express order on the said application but issued summons vide Order No. 03 dated July 11, 2017 which signifies that the said prayer of the petitioner was allowed, as such, drawing up of the decree should not be detained for payment of deficit court fees.

Heard Mr. Das and perused the materials-on-record.

It is the specific grievance of the petitioner that for want of decree, he is unable to prefer an appeal.

Nonetheless, after the amendment of Order XLI Rule 1 of the Code of Civil Procedure by the Code of Civil Procedure (Amendment) Act of 1999 w.e.f. July 01, 2002, the memorandum of appeal can be presented with the certified copy of the judgment, but requirement of filing of the decree cannot be dispensed with as it is required to verify the names of the parties to the appeal vis-à-vis the names of the parties to the suit and it is also required for other purposes.

It appears from the record that the petitioner to obviate the said difficulty has filed an application for drawing up the decree after waiving the requirement of payment of the deficit court fees but the said application is still pending.

The learned Trial Judge is requested to dispose of the said application as expeditiously as possible in accordance with law, preferably within

a period of two available effective working weeks of his Court from the date of communication of this order.

C.O. 54 of 2022 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.)