

18.01.2022
(S/L-09)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 69 of 2022

Mukul Agarwal (nee Bagrodia)
-Vs-
Abha Bagrodia & Ors.

Mr. Aniruddha Chatterjee,
Mr. Tanmoay Mukherjee,
.... For the Petitioner.

Mr. Siddhartha Lahiri,
Mr. Debraj Dutta,
... For the Opposite Parties.

Affidavit-of-service filed in Court toady be
kept with the record.

The revisional application under Article 227
of the Constitution of India is at the instance of
the plaintiff in a suit for partition and is directed
against order dated January 3, 2022 passed by
the 2nd Court of Learned Civil Judge (Senior
Division), District 24-Parganas (South) at Alipore
in the said suit being Title Suit No. 83 of 2015.

In course of the trial of the suit, the
photocopy of four documents filed by the plaintiff
were marked X, Y, Y/1 and Y/2 for identification.

The plaintiff filed an application for marking
of the certified copy of those documents as
exhibits.

The learned Trial Judge by the order
impugned has dismissed the said application

holding that the plaintiff has failed to show sufficient reason for acceptance of the secondary evidence in respect of the said documents.

The plaintiff in the said application has stated, inter alia, that the original of those documents have been misplaced and are not traceable. The said statement in the facts and circumstance of the present case satisfy the requirement of Section 65 (c) of the Indian Evidence Act 1872.

The order impugned, therefore, is set aside.

The plaintiff is permitted to prove the certified copy of the said documents in accordance with law.

C.O. 69 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 party subject to compliance with all requisite formalities.

(Biswajit Basu, J.)