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AKG 03-02-2022
Ct.21

C.O. 110 of 2022
Anup Kumar Saha
Versus
Putul Rani Saha

(VIA VIDEO CONFERENCE)

Mr. Anirban Pal,
Mr. Intikab Alam,
Mr. Subhankar Das
...for the Petitioner
Mr. Priyam Misra
...for the Opposite Party

The petitioner files affidavit of service on learned advocate for the opposite party.

The revisional application is taken up for hearing.

Being dissatisfied with the order of expunging the evidence of opposite party witness no. 1 by Judge, 4th Bench, Presidency Small Causes Court at Calcutta in S.C.C. No. 281 of 2015 on 22.11.2021.

Perused the impugned order and I find the learned Court below expunged the part evidence O.P.W.1. merely on the ground that none had appeared from the side of O.P. to move the adjournment petition filed on behalf of the absentee O.P. for whose further evidence the case was fixed on that day.

I find O.P. has already been examined and cross-examined in part. Had O.P. been not examined at all and was avoiding to face cross-examination, then Court below is justified in closing the evidence from the side of the defence.

Therefore, this Court holds that opportunity should be extended to the present petitioner not only to get himself cross-examined by the present opposite party but he should also be given opportunity to adduce further evidence in his defence. The matter need to be disposed of in merit after hearing both parties.

Accordingly, the impugned order is set aside and C.O. 110 of 2022 is allowed.

Interim orders, if any, stand discharged.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Kesang Doma Bhutia, J.)