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Ct. 18
08.04.2022

C.O. No. 253 of 2019
I.A. No : CAN 1 of 2019 (Old No : CAN 6182 of 2019)

Qayim Ali Mirza
Vs.
Naseem Ara Begum & Ors.

Mr. Shamit Sanyal,
Ms. Shahana Naznin ... For the petitioner.

Mr. Debanjan Mukherjee ... For the O.P. Nos. 1 to 4.

Mr. Arif Ali ... For the O.P. No. 3.

Re : I.A. No : CAN 1 of 2019 (Old No : CAN 6182 of 2019)

This is an application for recalling of the order dated June 18, 2019 whereby the revisional application was dismissed for default.

Perused the application.

It appears that the petitioner was prevented by sufficient cause from appearing before this Court when the matter was called on for hearing.

The order dated June 18, 2019 is recalled.

C.O. 253 of 2019 is restored to its original file and number.

I.A. No : CAN 1 of 2019 (Old No : CAN 6182 of 2019) is allowed without any order as to costs.

Re : C.O. 253 of 2019

By consent of the parties the revisional application is taken up for hearing.

The petitioner is the defendant no. 1 of the connected suit for partition being Title Suit No. 17 of 1997 pending

before the 6th Court of learned Civil Judge, (Senior Division) at Alipore, District – 24 Parganas (South).

In the said suit, prayer of the plaintiffs for repairing of a shop room situated within the suit property was allowed vide Order No. 256 dated May 11, 2017. The learned Trial Judge, to oversee the said repairing work, appointed one advocate of the Alipore Court as Special Officer.

The petitioner complaining that the said Special Officer has exceeded his power in discharging his duty filed three successive applications dated December 12, 2017, December 22, 2017 and March 08, 2018.

The learned Trial Judge by the order impugned being Order No. 281 dated November 19, 2018 has dismissed those applications as infructuous since the said Special Officer has already filed his report.

The repair work of the said shop room admittedly has been completed.

In view of completion of the repair work of the said shop room and submission of the report of Special Officer, the learned Trial Judge has rightly held that the said applications have become infructuous, the order impugned, therefore, does not call for any interference.

C.O. 253 of 2019 is dismissed without any order as to costs.

The partition Commissioner has already submitted his report in the final decree proceeding, as such, the learned Trial Judge is requested to expedite the disposal of the suit.

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.)

