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28.04.2022
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RVW 38 of 2022
IA No. CAN 1/2022

**Sree Sree Ananda Moyee Dakshina Kalimata
Thakurani & Anr.**

Vs.

Sri Satyendra Nath Chakraborty & Ors.

**Mr. Aniruddha Chatterjee
Mr. Arif Ali**

..for the applicants

Mr. Ratul Das

...for the respondent no. 2

Affidavit of service filed on behalf of the applicants is taken on record.

Memorandum of review being RVW 38 of 2022 and the connected review application being CAN 1 of 2022 seeking review of order dated 28th January, 2022 passed by this Court on civil revisional application being CO 125 of 2022 are taken up for hearing. Previously, this review application was heard by this Court on 4th April, 2022, 12th April, 2022, 21st April, 2022 and 25th April, 2022 in presence of the learned advocates representing the applicants. Lastly on 26th April, 2022 this review application was again taken up for hearing when no one appeared for the applicants and accordingly, this matter has been posted for hearing on the next date. Today, the matter is called on again when no one appears for the applicants.

Since this Court has heard the learned advocates representing the applicants on number of occasions as mentioned hereinbefore, Court proceeds to consider this review application on merit today.

Respondent no. 2 is represented by Mr. Ratul Das, learned advocate.

Connected civil revisional application was preferred by the review applicants, *inter alia*, challenging order dated 7th January, 2022. The said revisional application was heard on merit by this Court and order was passed on 28th January, 2022 dismissing the same.

The issue relates to consideration of application for addition of party preferred by the respondent no. 7 under Order 1 Rule 10 (2) by the Court below. Vide order dated 7th January, 2022, Civil Judge (Sr. Division), Alipore allowed the said application under Order 1 Rule 10 (2) thereby directing the respondent no. 7 herein to be added as a defendant to the suit instituted by the applicants. The said order dated 7th January, 2022 was questioned wherein this Court has found while considering the merit of the connected civil revisional application that while deciding the application under Order 1 Rule 10 (2) by the Court below, the previous order passed by the coordinate Bench on the revisional application being CO 2992 of 2017 dated 20th November, 2019 was substantially complied with. The relevant part of the order dated 20th November, 2019 passed by the coordinate Bench has been quoted in the order passed by this Court on 28th January, 2022.

The point has been taken by the review applicants that as per the order passed by the coordinate Bench on 20th November, 2019, the Court below was required to give opportunity to the plaintiff to deal with the documents which would be produced in support of the contention of the respondent no. 7 in connection with application under Order 1 Rule 10 (2). According to the applicants, such opportunity of dealing with the documents relied upon by the respondent no. 7 was not afforded to them.

This Court has failed to understand as to why the same point is again being agitated by filing this review application since this Court has considered this issue in its order dated 28th January, 2022 and found that the order passed by the Court below on 7th January, 2022 does not require any further intervention.

It also appears from the order dated 7th January, 2022 that no prayer has been made by the review applicants for supply of those documents relied upon by the respondent no. 7 while considering the application under Order 1 Rule 10 (2) afresh. It was also open as per order dated 20th November, 2019 of the coordinate Bench to file documents/evidence independently in rebuttal to negate the claim of the respondent no. 7 in support of the case ran by them by filing written objection.

It is well-settled principal that under the garb of hearing review application this Court cannot exercise the jurisdiction of the appellate Court.

When this order is being dictated learned advocates representing the review applicants have entered their appearance; let their names be recorded.

In view of above discussion, this Court finds no merit in the memorandum of review and the same stands dismissed and accordingly, the connected application being CAN 1 of 2022 stands also dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)