

16.03.2022
Item No.14
Court No.18
AJ.

C.O. 440 of 2022

Sk. Tausif Alam
-Vs-
Sk. Hasem Ali

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Rudranil Das.
....for the petitioner.

Mr. Somnath Ray Chowdhury.
.....for the opposite party.

The defendant in a suit for eviction of licensee is the petitioner of the present application under Article 227 of the Constitution of India which is directed against Order No. 36 dated February 11, 2022 and Order No. 37 dated February 21, 2022 passed by the 4th Court of the learned Civil Judge (Junior Division), Howrah in Title Suit No. 448 of 2019.

The learned Trial Judge by the Order No. 36 dated February 11, 2022 has refused to recall P.W.₁ as prayed for as the grounds for recall of the said witness were not convincing.

The learned Trial Judge by the Order No.37 dated February 21, 2022 after rejecting the prayer of the petitioner for adjournment, closed the evidence of the defendant.

This Court on perusal of the materials-on-record is not inclined to interfere with the Order No. 36 dated February 11, 2022 but the learned Trial Judge was not justified in closing the evidence of the defendant immediately after rejecting his prayer for adjournment as there is nothing on record to show

that the defendant was in repeated default in adducing evidence on previous dates fixed for recording his evidence, therefore, the Order No. 37 dated February 21, 2022, is set aside.

Anxiety of the plaintiff is delay in disposal of the suit, such anxiety is well appreciated and to avoid unnecessary delay, this Court directed the petitioner to disclose the number of witness he intends to cite in the suit.

Mr. Mukherjee, learned advocate for the defendant/petitioner informs this Court that, apart from himself, the defendant would cite four more witnesses in his favour.

The learned Trial Judge, therefore, shall allow the defendant to cite the above number of witness only and shall make all endeavour to dispose of the said suit as expeditiously as possible preferably within eight available effective working months of his Court from the date of communication of this order and in doing so shall not grant any unnecessary adjournments to either of the parties.

C.O. 440 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.)