

(21)
20.06.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO No. 493 of 2018
Sri Gokul Chandra Koley & ors.
-versus-
Dibakar Mondal & ors.

Mr. Jayanta Das,
Ms. Soumita Ghosh,
... for the petitioners.

Mr. Jayanta Das, learned counsel for the petitioners, files affidavit of service which is taken on record.

None appears on behalf of the opposite parties in spite of service.

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for declaration of title and injunction.

The suit was once decreed. The defendants preferred an appeal. The appeal Court set aside the said decree and remanded the suit back to the Trial Court, giving opportunity to the defendants to establish their title.

The suit, after remand was dismissed. The petitioners, being aggrieved by the said judgment and decree have preferred the connected Title Appeal no. 7 of 2015 which is pending before the 3rd Court of learned Additional District Judge, Paschim Midnapore.

The petitioners and the opposite parties both are tracing their title over the suit property through two separate deeds executed by the defendant no. 3 (since deceased).

In the appeal, the petitioners filed an application for appointment of Handwriting Expert for comparison of the signature of the said deceased defendant no. 3 appearing in the said two competing deeds.

The appeal Court below by the order impugned being order no. 25 dated January 11, 2018 has dismissed the said application.

Mr. Jayanta Das, learned counsel for the petitioners, however, citing the judgment of the learned Single Judge of Andhra Pradesh High Court in the case of ***DINTAKURTHI NARAYANA Vs. RACHURU BHASKAR RAO*** reported in **2018(1) ICC 289 (A.P.)** submits that when the contemporaneous signatures are available for comparison; to get a correct picture, the appointment of Handwriting Expert is necessary.

The suit was remanded enabling the defendants to prove their title deed. The defendants availing the said opportunity have resisted the claim of the plaintiffs in the suit. The plaintiffs at the said stage did not take the steps, which they are now proposing to take in appeal, at the belated stage without any justification.

Moreover, no case for appointment of such Handwriting expert has been made out in the application.

The decision relied on by Mr. Das in the facts and circumstances discussed above, is not applicable in the present case.

C.O. 493 of the 2018 is therefore dismissed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the party subject to compliance of all requisite formalities.

(Biswajit Basu, J.)