

13.05.2022
Item No.198
Ct. No.7
CHC
(disposed of)

C.O.932 of 2022

Smt. Kakali Barman (Manna)

Vs.

Sri Sukdeb Barman

Mrs. Susmita Saha Dutta,
Mr. Niladri Saha,
Ms. Pallabi Chatterjee
...for the petitioner

Mr. Debjit Mukherjee,
Mrs. Susmita Chatterjee,
Mrs. Dipanwita Ganguly,
Mr. Kaustav Bhattacharya
...for the opposite party

The subject-matter of challenge in this revisional application is against the order dated 9th March, 2022, passed by learned Judge-in-Charge remaining In-Charge of court of learned Additional District Judge, 2nd Court, at Raiganj, in Matrimonial Suit No.80 of 2014, allowing the evidence to be collected by learned Deposition Commissioner, and issuing writ accordingly therefor.

Admittedly, the witness is a doctor, who is octogenarian, and at the moment staying at Contai. It is for the evidence of such doctor staying at Contai, Learned Deposition Commissioner was allowed to collect his evidence. A date was fixed for further evidence of P.W.1 including his cross-examination.

Learned advocate for the petitioner frankly admits that in view of the pendency of this revisional application, though the learned advocate for the petitioner had been to Contai, for cross-examination of such doctor, but it could not be done.

As a subsequent event, the learned Deposition Commissioner in the meantime, has already submitted his report to the court below.

Learned advocate for the petitioner candidly submits that since the cross-examination of such doctor/witness was closed by the subsequent order of the court below, an application has already been filed before the court below for cross-examination of such doctor/witness, which has been posted for hearing on 1st June, 2022.

Per contra, Mr. Mukherjee, learned advocate appearing for the opposite party submits that instant revisional application has become infructuous as there is nothing left to be adjudicated in terms of the order impugned.

It is disclosed in the submission of Mr. Mukherjee that till such time, the court below has not yet accepted the learned Deposition Commissioner report, though there has been an application filed by the petitioner praying for cross-examination of doctor/witness, whose cross-examination has been

purportedly closed by the learned Deposition Commissioner.

Having considered the submission of both sides, it appears that no further elaboration is necessary with regard to the subsequent event, that happened with the collection of evidence of a doctor/witness with the help of learned Deposition Commissioner. Whenever, an application has already been filed praying for cross-examination of such doctor/witness, this Court believes that the same shall be disposed of in accordance with the provisions of the law, so that there may be a fair adjudication reached by the court below giving adequate scope to controvert the evidence of doctor/witness, already adduced in this case.

With this observation/direction, the revisional application stands disposed of.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)