

10.05.2022
Item No.24
Ct. No.7
CHC
(disposed of)

C.O.962 of 2022

**Sri Debasis Roy & anr.
Vs.
Smt. Krishna Ghorai & ors.**

Mr. Salil Kumar Maiti,
Ms. Pinki Saha

...for the petitioners

Mr. Raj Kr. Sain

...for the opposite parties

The subject-matter of challenge in this revisional is against the order dated 11th March, 2022, passed by learned Civil Judge (Junior Division), Haldia, Purba Midnapore, in Title Suit No.195 of 2011, closing the evidence of defendant nos.31 and 32 and thereby fixing the matter for argument.

Mr. Maiti, learned advocate appearing for the petitioners (defendant nos.31 and 32) submits that in this case as many as four (04) sets of written statements have already been filed, for and on behalf of the defendants.

Admittedly, this is a suit for declaration and injunction. Without any controversy, the evidence of plaintiffs has already been closed. Plaintiffs have examined as many as two witnesses on their behalf.

It is contended by the learned advocate for the petitioner that the court below has erroneously closed the evidence of defendant nos.31 and 32, and set the suit for argument thereby preventing the defendants from putting up their respective defence in an effective manner.

Per contra, learned advocate appearing for the opposite parties/plaintiffs submits that in this case as many as five witnesses for the defendants have already been examined, and the petitioners were not careful about the number of witnesses to be examined in this case in support of their respective defence, as disclosed in their respective written statement.

Having considered the submission of both sides, it appears that the subject-matter to address is very short, and it relates to closure of the evidence of defendant nos.31 and 32 alleging thereby to have caused serious prejudice to defendants, mentioned above.

As per submission disclosed by the learned advocate for the petitioners that there are two other witnesses for defendant nos.31 and 32, still left to be examined in this case, and all other witnesses for the defendants have already been examined.

That being the position, if opportunity to adduce evidence by defendant nos.31 and 32 is granted to ensure their best defence to be put up during the trial,

that would not cause any prejudice to the opposite parties/plaintiffs.

The impugned order dated 11th March, 2022, passed by learned Civil Judge (Junior Division), Haldia, Purba Midnapore, is thus, set aside giving liberty to petitioners (defendant nos.31 and 32) to adduce evidence before court below, upon making an application afresh before the court below citing the name of the witnesses to be examined for the purpose, and if any such application is furnished within three (03) weeks from the date of communication of this order, the same shall be considered giving a suitable date for the purpose, so that the witnesses left unexamined by the petitioners, may be examined in full, preferably within (04) weeks thereafter, inclusive of cross-examination of those witnesses. Such exercise may be made, without granting any unnecessary adjournment, unless it is extremely unavoidable, so as to ensure expeditious disposal of the suit. This would not however, prevent the opposite parties to subject the witnesses still left unexamined for cross-examination to the extent necessary in the interest of 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.)