

10.06.2022
Item No.23
Ct. No.7
CHC
(disposed of)

C.O.1199 of 2022

Col. Amitava Poddar
Vs.
Sri Rabin Mukherjee & anr.

Mr. Manas Kr. Ghosh,
Ms. Susmita Dey (Basu)
...for the petitioner

The subject-matter of challenge in this revisional application is against the order dated 28th March, 2022, passed by learned Civil Judge (Senior Division), 6th Court, Alipore, in Title Suit No.987 of 2017, rejecting the petition filed by the petitioner/defendant disputing with non-production of some relevant documents, reference of which has made in the averments contained in affidavit-in-chief under Order 18 Rule 4 C.P.C.

Ms. Susmita Dey (Basu), learned advocate for the petitioner submits that though affidavit-in-chief was filed by plaintiff making averments therein, but the documents connected with the averments could not be filed to substantiate the facts disclosed therein.

It is contended by the learned advocate for the petitioner that in spite of having made reference of

such documents, such documents, not being accompanied on the day of tendering affidavit-in-chief under Order 18 Rule 4 C.P.C., the same should not be tendered on subsequent occasion, even upon filing an adjournment petition to produce the same at a later stage.

It is admittedly a suit for defamation.

True it is, there has been reference of some documents in connection with some averments contained in affidavit-in-chief, furnished by the plaintiff under Order 18 Rule 4 C.P.C., but the documents connected therewith could not be produced. A petition for adjournment to produce such documents was filed, which was however, allowed by the court below. But the fact remains that on the day itself of producing the affidavit-in-chief by the plaintiff, the relevant documents being relied upon by the plaintiff could not be produced so as to give sufficient notice to the defendant/petitioner.

Though the plaintiffs/opposite parties could not produce relevant documents at the time of tendering affidavit-in-chief, but that does not automatically prevent the plaintiffs/opposite parties from producing the same at a subsequent stage of evidence, during the turn of plaintiffs. True it is that the same should have been produced at the very beginning of tendering affidavit-in-chief, but delay in production of the

relevant documents would not, however, take away the right of cross-examination of petitioner/defendant so as to controvert the documents, even belatedly produced at the time of adducing evidence during the turn of plaintiffs/opposite parties.

In view of the nature of order proposed to be made, no further elaboration is necessary. As such, prior notice is considered to be unnecessary.

Service upon the opposite parties stands dispensed with.

The revisional application is thus disposed of giving liberty to petitioner to controvert the documents produced by the plaintiff being relied upon doing necessary cross-examination.

The court below is directed to take into account the objection raised by the petitioner, while controverting such documents in evidence in the form of cross-examination, so that the logical conclusion may be reached in an effective manner, giving sufficient opportunity of hearing to either of the parties to this case.

Petitioner is directed to make communication of this order to the learned court below as well as to the opposite parties and their learned advocate appearing in the court below.

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.)