

16.02.2022
Ct. 21
D/L 4
ab

C.O. 1092 of 2021
(Via Video Conference)

Mohammad Sagir & Anr.
-Vs-
Abu Naim Siddiquee & Ors.

Mr. S. M. Ismail,
... for the petitioner
Mr. Gour Baran Sau,
...for the opposite party no. 1

Mr. S. M. Ismail, learned advocate appears for the petitioners and Mr. Gour Baran Sau, learned advocate appears for the opposite party No. 1.

C.O. 1092 of 2021 is appearing for the first time before this Court. It has been pointed by the learned advocate for the petitioners that the matter was listed on 01.02. 2022. From the record, it appears that after filing, the matter has appeared before this Court for the first time this day.

Department submits that the ACO by mistake in place of C.O. 1092 of 2021, the records of C.O. 1092 of 2020 was placed on 01.02.2022 and the order was passed in C.O. 1092 of 2020 on 01.02.2022. Therefore, order passed in C.O. 1092 of 2020 has been wrongly uploaded in the files of C.O. 1092 of 2021.

The petitioners file affidavit of service showing due service on learned advocate for the opposite parties on record.

The revisional application is taken up for hearing.

Heard learned Advocate for the parties.

The defendants no. 1 and 4 being aggrieved by the order dated 20.01.2021 passed Waqf Tribunal in Suit No. 37 of 2015 whereby the amendment application filed by the plaintiff was allowed. The plaintiff by filling the proposed amendment wanted to bring on record the actual quantum of land in respect of which he wants declaration and recovery of khas possession from the defendant no. 1. That he wanted to bring on record that he seeks relief in respect of 13 decimals of land out of 26 decimals of land and not in respect of entire 26 decimal of land as mentioned in the schedule of the original plaint.

It appears from the record the plaintiff and defendant no. 1 happens to be two brothers and sons of Abul Barkat Siddiquee, Mutwalli of Haji Md. Kabir Waqf Estate. The plaintiff appears to have filed the suit seeking relief mainly against the defendant no. 1 for mishandling and misusing the Waqf property.

Considering such facts, this Court is of view it is necessary to bring on record the actual quantum of land and correct description of the property involved in the dispute in respect of which the plaintiff has sought

relief against his own brother and in order to pass an effective decree in case the plaintiff succeeds. Therefore, this Court does not find any illegality or material irregularity in the order impugned. The revisional application fails.

Accordingly, **C.O 1092 of 2021 is dismissed.**

Interim order, if any, stands discharged.

There will be no order as to costs.

Urgent Photostat certified copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Kesang Doma Bhutia, J.)