

04.08.2022
Item No.19
Ct. No.7
CHC

C.O.1460 of 2022

Sri Asish Kumar Laha & anr.

Vs.

Sri Sandip Sinha & ors.

Mr. Rajat Dutta

...for the petitioners

Mr. Saptansu Basu, Senior Advocate

Mr. Y. Mosharaf Hussain

...for the opposite party no.1

While challenging the order impugned, passed by learned Civil Judge (Senior Division), 9th Court, Alipore, in Miscellaneous Case No.176 of 2015, under Order 21 Rule 97 to 101 C.P.C., learned advocate for the petitioners candidly submits that an opportunity may be extended to the petitioners to adduce evidence.

Mr. Basu, learned Senior Advocate raises strong objection against the submission, raised by the petitioners, submitting that the court below has subscribed independent reasons, while rejecting the petition under Section 151 C.P.C. praying for an order for recalling two orders dated 8th March, 2019, and 29th August, 2019, and such rejection being a product of due exercise of discretion, vested to the court below, should not be interfered with by superior Court.

Thus, according to Mr. Basu, the discretion being lawfully exercised by the court below, impugned order would remain unaltered.

The Misc. Case under Order 21 Rule 97 to 101 C.P.C. was registered in the year 2015. The order impugned is very reflective revealing the conduct of the petitioners exposed in this case records. The court below was not oblivious of the order passed by this Court in C.O.1874 of 2016, directing the court below to ensure expeditious disposal of Misc.Case referred hereinabove.

Having considered the submission of both sides, it appears that it is a case, where sufficient opportunity was extended to the petitioners to adduce evidence. The opportunity to adduce evidence was given several times, but it could not be utilised. The impugned order being supported by reasons, this Court does not find any reason to interfere with the same.

With the aforesaid observations the revisional application stands dismissed.

Parties are directed to make communication of this order to the learned court below.

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.)