

22.07.2022
Item No.14
Ct. No.7
CHC
(disposed of)

C.O.1477 of 2022

**Sri Mohanlal Patra
Vs.
Sri Mahabir Banerjee & ors.**

Mr. Indranuj Dutta,
Mr. Rahul Ghosal
...for the petitioner

Mr. Subrata Bhattacharjya
...for the o.p. nos.1,2,3,4,5 & 6

The subject-matter of challenge in this revisional application is against the order dated 15th July, 2019, passed by learned Civil Judge (Junior Division), 2nd Court, Durgapur, Paschim Bardhaman, in Title Suit No.53 of 2013, declining to grant any stay.

Admittedly, the present suit was instituted in the year 2013. The suit has been set for argument stage. It is at the stage of argument, petitioner/plaintiff filed the petition under Section 151 C.P.C. praying for stay of further proceedings alleging one death certificate marked as Exbts. F and J to have been fraudulently obtained by deceitful means.

Learned advocate appearing for the petitioner contends that validity of such documents marked as Exhibits.'F' and 'J' has been challenged by filing a separate suit being T.S.78 of 2019.

It is, thus, submitted by learned advocate for the petitioner that unless stay of the proceedings is granted, there will be conflicting decision to come in this case, which should be prevented.

Per contra, Mr. Bhattacharjya, learned advocate appearing for the opposite parties/defendants submits that plaintiff/petitioner availed of sufficient opportunity of making cross-examination to challenge the veracity, authenticity and genuineness of the documents, already marked Exhibts.'F' and 'J', and even after availing of the opportunity of cross-examination, the petitioner has filed the frivolous petition simply to stall the proceedings, favourable to the purpose of the petitioner.

Having considered the submission of both sides, it appears that two documents, marked as Exbts.'F' and 'J' relatable to the death certificate of one Nibaran Chandra Chattopadhyay, are under challenge in this case. As soon as those two documents were marked Exhibits, not only the veracity of the documents, but authenticity and genuineness of the documents were also challenged inviting extensive cross-examination. The suit is admittedly at the stage of argument.

Upon perusal of the impugned order, it appears that when the genuineness of the documents marked as Exbts. 'F' and 'J' has been challenged taking recourse to lengthy cross-examination, there is hardly

anything left for any further consideration. The impugned order does not call for any interference.

The revisional application is thus disposed of.

This would not, however, prevent the petitioner to controvert the documents at the time of final hearing of the argument in accordance with the provisions of the law, and if any such point is raised, that shall be resolved by the court below, providing opportunity of hearing to other sides in accordance with the law.

The logical conclusion of the case may thus be reached at an earlier date upon conclusion of the argument already set for by 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.)