

S/L 17+18
30.11.2022
Court. No. 12
Suwayan

CO 1299 of 2021

**Kshitish Kumar Das & Anr.
Vs.
Surajit Das & anr.**

**With
CO 1300 of 2021**

**Kshitish Kumar Das & Anr.
Vs.
Kalinath Ghosh**

Mr. Sarbananda Sanyal

...for the petitioners.

In re: CO 1299 of 2021

Mr. Sanyal, learned Advocate for the petitioners is present and the affidavit-of-service as filed today on behalf of the petitioners be kept with the record.

None appears on behalf of the opposite parties despite service. Accordingly, this Court proposes to dispose of the instant revisional application in absence of the opposite parties.

The instant revisional application under Article 227 of the Constitution of India arises out of Order No. 31 dated 26.02.2020 as passed in Misc. Case No. 121 of 2009 by the learned Civil Judge (Junior Division), Lalbagh whereby and whereunder the learned Trial Court allowed the petitioner's application dated 12.07.2019 in part. The petitioner felt aggrieved and, thus, preferred the instant revisional application.

In course of hearing, Mr. Sanyal, learned Advocate for the petitioners draws the attention of this Court to the

impugned order as well as to the photocopy of the petition dated 12.07.2019 as has been annexed with the instant revisional application. It is contended that by filing the said application dated 12.07.2019 the petitioner intended to tender two deeds bearing Nos. 4477 and 2505 along with four copies of CSROR pertaining two Khatian Nos. 348 and 347. It is contended that probably due to oversight learned Trial Court did not allow the petitioner to tender the aforesaid two deeds.

On perusal of the certified copy of the impugned order it transpires to this Court that the learned Trial Court while passing the impugned order did not assign any reason as to why she did not allow the petitioner to tender the said two deeds.

In considered view of this Court in the petition dated 12.07.2019 the petitioner has assigned sufficient reason as to why the said two deeds can not be tendered in evidence earlier.

In view of such the instant revisional application is allowed. Liberty is given to the petitioners to tender the aforementioned two deeds being Nos. 4477 and 2505 in evidence in Misc. Case No. 121 of 2009 in accordance with law.

In view of such the impugned Order No. 31 dated 26.02.2020 as passed in Misc. Case No. 121 of 2009 by the learned Civil Judge (Junior Division), Lalbagh is modified to the extent indicated hereinabove.

With the aforementioned observation, the instant revisional application being CO 1299 of 2021 is disposed of.

In re: CO 1300 of 2021

Mr. Sanyal, learned Advocate for the petitioners is present.

None appears on behalf of the opposite party.

At this stage, Mr. Sanyal, learned Advocate for the petitioner requests this Court to allow him to file a supplementary affidavit in support of his application as filed under Article 227 of the Constitution of India.

In view of such, liberty is granted to the petitioner to file supplementary affidavit.

Let the instant case record be de-tagged from CO 1299 of 2021.

Let the matter be listed under the heading “**For Hearing**” on January 4, 2023.

Petitioners are hereby directed to serve notice upon the opposite party along with a server copy of this order by Speed Post A/D and to file affidavit-of-service positively on or before the next date fixed.

(Partha Sarathi Sen, J.)