

18.08. 2022
item No.139
n.b.
ct. no. 14

C.O. 1500 of 2022
Anil Biswas @ Anil Baran Biswas
Vs.
Chumki Biswas & Anr.

Mr. Saptarshi Basu,
Mr. Sanjib Seth,
Ms. Basanti Saren,
Ms. Priyota Ganguli
.....for the Petitioner

Mr. Manas Kumar Das,
Mr. Tarun Kumar Das
.....for the Opposite Party

Affidavit-in-opposition filed by the opposite party and Affidavit-in-Reply filed by the petitioner be kept on record.

The revisional application under Section 24 of the Code of Civil Procedure is taken up for hearing.

I have heard the learned counsel appearing for the parties.

The petitioner seeks transfer of a Title Suit being No.202 of 2021 from the Court of the Learned Civil Judge (Junior Division), Tehatta, Nadia to the concerned Court of Learned Civil Judge (Junior Division) at Barrackpore, 24-Parganas (North). It is stated by the petitioner that the opposite parties have brought the suit praying for permanent injunction. The petitioner resides at "Nestle Apartment", 181/9, B.C. Chatterjee Street, Lokenath Park, and P.S. Belghoria, Kolkata- 700056. He is aged about 85 years. Owing to his extreme old age, it will be hardship for him to appear before the concerned Court at Tehatta to contest the suit. Hence the prayer.

The opposite parties in his affidavit-in-opposition submit that the opposite party no.1 namely, Ms. Chumki Biswas lost her husband Asit Baran Biswas in 2021. Asit Baran Biswas is the son of the petitioner. The opposite party submits that for a widow it will be much inadvertent for her to appear before the Court at Barrackpore if the suit is transferred to the concerned Court at Barrackpore. The opposite parties suggest that if the petitioner is unable to appear before the Court at Tehatta his evidence can be taken on commission. On such grounds the opposite parties seek dismissal of the revisional application.

The petitioner in his affidavit-in-reply at paragraph 7 states that the opposite party no.1 has brought a Title Suit being No.584 of 2022 against the petitioner in the Court of Civil Judge (Senior Division) 3rd Court, Barasat, 24-Parganas (North). On such ground and contending the averment as made in the affidavit-in-opposition, the petitioner submits that the revisional application preferred by him should be allowed.

It is not in dispute that the petitioner is now aged about 85 years. The petitioner resides at a place under the Judgeship of the Learned District Judge, 24-Parganas (North). As it appears from the affidavit-in-reply the Title Suit being No.584 of 2022 filed by the opposite party no.1 against the petitioner is pending in the Court of the Learned Civil Judge (Senior Division), 3rd Court Barasat.

Having heard the Learned Counsels appearing for the parties and considering the balance of convenience and inconvenience, I feel that it will be wise to withdraw the Title Suit No.202 of 2021 from the Court of the Learned Civil Judge (Junior Division), Tehatta and transfer the suit to any of the Courts of the Learned Civil Judge (Junior Division) at Barasat.

Accordingly, the revisional application is allowed.

Let the Title Suit No.202 of 2021 be withdrawn from the Court of the Learned Civil Judge (Junior Division), Tehatta, Nadia and the suit be transferred to the Court of the Civil Judge (Junior Division), 1st Court, Barasat for disposal.

The Learned Civil Judge (Junior Division), Tehatta is directed to transmit the case records of the title suit to the Learned transferee Court immediately after receipt of the copy of this order.

Let a copy of this order be communicated to both Learned Courts below immediately.

With the aforesaid direction, the revisional application stands disposed of.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Rabindranath Samanta, J.)