

26.07.2022
Item No.1
Ct. No.7
CHC
(disposed of)

C.O.1555 of 2022

Ahalladi Bibi & ors.

Vs.

Sk. Altab Hossain & ors.

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal
...for the petitioners

Mr. Bhattacharya, learned advocate appearing for the petitioners/defendants disputes with the impugned order No.106 dated 22.02.2022, and order No.108 dated 4th April, 2022, passed by learned Civil Judge (Junior Division), 3rd Court, at Diamond Harbour, South 24 Parganas, in Title Suit No.59 of 2006, alleging that the court below has unnecessarily burdened the petitioners/defendants to produce the letter of acknowledgement dated 3rd January, 1975 for keeping the same in safe custody after getting back the same from the Director, QDEB, to whom the original letter of acknowledgement dated 03.01.1975 along with original Deed of Sale dated 22nd February, 1979 has been sent for examining the signature of Abdul Hossain in those two documents by the order of the court below.

Mr. Bhattacharya contends that on the prayer of the petitioners/defendants, the prayer for hand writing expert was allowed, and they were directed to bear the

expenses necessary for sending the documents to the Director, QDEB for examination and opinion of hand writing expert regarding signature appearing in those two documents referred hereinabove.

It is submitted by learned advocate for the petitioners that whenever a document is sent to Director, QDEB for hand writing expert's opinion, it is ordinarily sent through the process of the court, and also under the order of the court. When the petitioners have already undertaken to bear the expenses necessary for the required hand writing expert examination and opinion, there cannot be any order passed by the court below so as to burden the petitioners to resubmit the letter of acknowledgement dated 03.01.1975 to the court below for keeping the same in safe custody, after getting back the same.

It is thus strenuously contended by Mr. Bhattacharya that the documents would be automatically sent by the court with its own order for hand writing expert's opinion in respect of the documents mentioned hereinabove, and after the job is over, the documents after examination will be sent back to the court below with a report of hand writing expert.

There is no scope for the petitioners to resubmit the same after examination of the hand writing expert's opinion with respect to those two documents.

Upon referring such submissions, Mr. Bhattacharya proposes for modifying the order so that the petitioners cannot be burdened to produce the letter of acknowledgement dated 3rd January, 1975 for resubmitting the same, after getting back the same, for preserving in the safe custody.

In view of such submission disclosed by the petitioners, no prior notice is considered to be necessary upon the opposite parties.

Service upon the opposite parties stands dispensed with.

It is not in dispute that the documents praying for examination of hand writing expert have been allowed on the prayer of the petitioners/defendants. This is also the undenying position that the original Deed of Sale dated 22nd February, 1979, and a letter of acknowledgement dated 3rd January, 1975 have to be sent to the Director, QDEB for hand writing expert's examination and opinion. Therefore, the documents are sent to the Director, QDEB through the court with the order of the court. As soon as the job is over or completed by the hand writing expert, documents already sent would automatically come back to the court below officially with a report of the hand writing expert. After receiving back the required documents from the Director, QDEB together with its opinion, and report, the same may be preserved in safe custody with

an order of the court, if not already passed, in presence of the learned advocate appearing for both the parties in the cases, for preservation of the same.

That being the position, there is hardly any occasion of burdening the petitioners/defendants to resubmit the letter of acknowledgement dated 3rd January, 1975 to the court below for keeping the same in safe custody, after getting back the same. The direction, thus passed upon the petitioners/defendants to resubmit the letter of acknowledgement dated 3rd January, 1975 to the court below for keeping the same in safe custody after getting back the same is thus modified to the extent mentioned hereinabove.

It is, however, clarified that every steps connected with sending required documents to hand writing expert for examination and opinion, and return back of the same would be completed officially without any intervention of the parties, and after the report of the hand writing expert together with returned back documents, those two documents received officially from the Director, QDEB, may be preserved in safe custody with adequate notice upon the parties to the case.

The revisional application thus stands disposed of doing modification of the impugned order, to the extent mentioned hereinabove.

Petitioners are directed to make communication of this order to the learned court below as well as to the opposite parties and their learned advocate in 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.)