

11.04.2022
Item No.3
Ct. No.7
CHC
(disposed of)

**C.O.1528 of 2021
IA NO: CAN/1/2022
(Via Video Conference)**

**Smt. Mita Karmakar
Vs.
Sri Somnath Karmakar**

Mr. Subhas Chandra Atha, (in virtual mode)
Ms. Payel Pramanick
...for the petitioner

Mr. Soumik Ganguli,
Ms. Chandana Chakraborty
...for the respondent/plaintiff/
opposite party

The subject-matter of challenge in this revisional application is against the rejection of the prayer for adjournment to defer the examination of a defence witness, to be adduced for defendants namely, M. L. Karmakar from Rourkela, which by the impugned order the court below has rejected the prayer for adjournment and ultimately posted the matter for argument.

Mr. Atha, learned advocate for the petitioner submits that due to the non-availability of ticket during the COVID-19 period, the dependable witness for the defendant's could not be produced on the date scheduled for examination of the defence witness, but the court below has mechanically rejected the prayer for adjournment to defer the examination of defence

witness for want of production of convincing documents by the petitioner/defendant, while seeking adjournment.

Per contra, Mr. Ganguli, learned advocate appearing for the respondent/plaintiff/opposite party submits that this is an old pending case, and several dates were adjourned on the prayer of the defendant's to produce the witnesses. The tactics adopted by the defendant is nothing but a dilatory one and the court below has rightly rejected the prayer for adjournment of the defendant upon considering the long pendency of this litigation, and the matter thereafter has been posted for argument. The impugned order, according to learned advocate for the opposite party, is not to be assailed in the manner, as proposed to be done.

Admittedly, the evidence of plaintiff has already been concluded.

Learned advocate for the petitioner only seeks to ensure his defence, though there has been some delay caused in tendering the witnesses on the scheduled date.

Since learned advocate for the petitioner has disclosed in his submission that only one witness has to be examined for the defendant in this case to establish his defence in this case, same may be allowed to be produced, otherwise there will be serious prejudice caused to the defendant. Such submission

needs to be respected providing defendant an opportunity to examine such witness in a time framed schedule mentioned hereinbelow. Such opportunity if allowed, there will be no prejudice caused to the plaintiff/opposite party.

The impugned order dated 19th March, 2021, passed by learned Civil Judge (Junior Division), Additional Court, Sadar, Bankura, in Title Suit No.1 of 2016 is set aside.

The petitioner defendant may be permitted to produce the witness on the date, to be given by the learned court below, within three weeks from the date of communication of this order peremptorily, and if any such witness is examined on that date, the same shall be subjected to cross-examination by the learned advocate for the plaintiff in accordance with the provisions of the law, and after necessary cross-examination, the case may be posted for argument in order to ensure expeditious disposal of the case.

Petitioner is directed to make communication of this order to the learned court below.

With this direction/observation, the instant revisional application stands disposed of.

The application being IA NO: CAN/1/2022 is also 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.)