

(13)
15.02.2022
(p.jana)

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

(Via Video Conference)

CO No. 2356 of 2019

Sri Subhas Pal
-versus-
Sri Jahar Kundu & ors.

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee,
Ms. Dipanwita Ganguly,
Mr. K. Bhattacharya,
... for the petitioner.

Affidavit of service filed by Mukherjee, learned counsel appearing on behalf of the petitioner, in Court today be kept with the record.

None appears to oppose this application in spite of service.

The revisional application under Article 227 of the Constitution of India is directed against the order no. 124 dated May 30, 2019 passed by the Additional Court of learned Civil Judge (Senior Division), Hooghly in Misc. Case No. 30 of 2017 arising out of Title Suit No. 136 of 2013.

The petitioner filed an application under Order XXXIX Rule 2A of the Code of Civil Procedure, registered as the connected Misc. Case No. 30 of 2017 before the learned Trial Judge. In the said application the petitioner alleged that the opposite parties have changed the nature and character of the suit property in violation of the order of injunction passed in the suit by making construction over the suit property and by excavating a well therein.

In the said misc. case an Advocate Commissioner was appointed at the instance of the petitioner for holding local inspection of the suit property.

The petitioner applied for appointment of an Engineer Commissioner to bring on record that the said well was excavated after the order of injunction was passed. The learned Trial Judge by the order impugned has dismissed the said application.

The petitioner is alleging that there was no well in the suit property but same was excavated subsequently, the existence of the said well in the suit property has already come on record through the report of the Advocate Commissioner, further evidence in this regard in view of the scope of enquiry to be conducted in the said misc. case is not necessary.

This Court although is not approving the reasons recorded in the order impugned in dismissing the said application but the conclusion being correct is not inclined to interfere with it.

C.O. 2356 of 2019 is disposed of with the above observations, without any order as to costs.

The learned Trial Judge is requested to dispose of the said misc. case as expeditiously as possible in accordance with law without granting any unnecessary adjournment to either of the parties.

Urgent photostat certified copy of this order, if applied for, be supplied to the party subject to compliance of all requisite formalities.

(Biswajit Basu, J.)