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C.O. 2174 of 2022

Ajoy Ruidas Since Deceased Subts. By Muktipada Ruidas

Vs

Sagar Ruidas and Ors.

Mr. Arup Krishna Das,

... For the petitioner.

Mr. Rudra Prasad Motilal,

... For the opposite party no. 1.

The matter has come up in the list under the heading extension of interim order, which was earlier granted by this Court.

The subject matter of challenge is against an order dated 12th May, 2022 passed by the learned Civil Judge (Junior Division), Additional Court, Asansol in Title Suit No. 60 of 2011 declining to mark a thirty years old document – Death Certificate/Prescription as exhibit, issued by a Doctor revealing the death of a person disclosed in such document.

Admittedly this is a suit for declaration and injunction.

Mr. Arup Krishna Das, learned advocate appearing for the petitioner submits that in spite of causing production of original document (Death Certificate/Prescription issued by Doctor), which was marked as exhibit 'A' in Title Suit 32 of 2000 of learned Civil Judge (Senior Division), Asansol, the said

document has been marked as 'X' for identification, thereby making infraction of the provisions of law applicable to a case of thirty years old document.

Mr. Das argues that whenever a document was marked exhibit in accordance with law in another suit, the reference which is disclosed in the order impugned, the only rider is to prove the possession of such document, and nothing else, as per settled proposition of law. More so, when the original document has already been collected, and produced before the Court below, which was marked exhibit in another suit, the question of proving the possession further would be an unnecessary exercise.

Per contra, Mr. Rudra Prasad Motilal, learned advocate appearing for the opposite parties/defendants submits that it is an old document, but mere production of the document would not enable the petitioner to give a go by to the provisions of law.

It is further contended that because of the pendency of this matter, the suit is getting delayed resulting in prejudice caused to the opposite parties/defendants.

Having considered the submission of both sides, it appears that Death Certificate/Prescription issued by Doctor, marked as exhibit in another suit being Title Suit No. 32 of 2000, of learned Civil Judge (Senior

Division), Asansol, could not be marked exhibit in accordance with law.

The proposition of law is quite settled that in case of thirty years old document, the document may be marked exhibit, subject to proof of possession. When a decumbent was already marked exhibit in another suit in accordance with the law, and the same has been tendered in evidence in the instant suit, upon collecting the same in accordance with law, the same may be marked exhibit subject to proof of custody, provided there is no intervening delay caused in the meantime, in between the date of getting back the original death certificate and the date of production of the same before the court below.

The law being conspicuous on the issue without any ambiguity, as available in the Evidence Act, no further elaboration is called for.

The revisional application is thus disposed of upon setting aside the impugned order, with a direction to hear out the application afresh dated 25th November, 2019, providing sufficient opportunity of hearing to either of the parties to this case, but without granting unnecessary adjournment, unless it is extremely unavoidable.

Such exercise may be completed within three weeks from the date of communication of this order.

For the abundant precaution, this would not, however, prevent the petitioner to prove the document tendered in evidence and marked as 'X', in accordance with law, subject to the availability of the witness for proving the same.

The logical conclusion of the suit may be reached without granting unnecessary adjournment, preferably before the end of April, 2023.

Both the parties are directed to make communication of this order to the learned court below.

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

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)