

22.11.2022
Item No.4
Ct. No.7
CHC
(disposed of)

C.O.2295 of 2022

**Smt. Monika Agarwal
Vs.
Santosh Kumar Mondal**

Mr. Sudip Das
...for the petitioner

Mr. Ayan Banerjee,
Ms. Debjani Sengupta
...for the opposite party

Subject-matter of challenge in this case is against the order dated 7th June, 2022, passed by learned Civil Judge (Senior Division), Chandernagore, Hooghly, declining to call for the case record of Title Suit No.23 of 2012, already disposed of.

According to petitioner/defendant the records sought to be produced are in the record room, and may be produced upon calling the same for the fair adjudication of the matter in controversy, particularly, with respect to an agreement, dated 20th November, 2010 for the sale of some property disclosed in such agreement.

It is submitted further by the petitioner that there will be no prejudice caused, if such original case records are called for from the record room for the fair

adjudication of the controversy surfaced at the moment between the parties.

Incidentally, it is contended, without taking any plea in the original application for calling for the record, that the petitioner apprehends or suspects some interpolation caused in such agreement, dated 20th November, 2010, which has subsequently been filed by the opposite party before the court below.

Per contra, Mr. Ayan Banerjee, learned advocate appearing for the opposite party submits that the document sought to be relied upon is an agreement for sale executed on 20th November, 2010, the original of which has already been produced before the court below, and same has been marked 'X' for identification with a direction upon the Collector to ascertain the deficit court fees for the purpose of impounding the document.

As per submission of Mr. Banerjee in view of such exercise being already taken by the court below, the original document sought to be produced, by the petitioner upon calling for the original care record of Title Suit No.23 of 2012, is no longer necessary.

Having considered the submission of both sides, it appears that Title Suit No.23 of 2012 has been dismissed for non prosecution. Though it is alleged by the petitioner that there has been some interpolation caused with respect to the agreement dated 20th

November, 2010 but there is no such plea taken in the pleadings, while proposing for production of original case record. There cannot be any direction merely on the basis of surmise and conjecture. Before calling for the case record, petitioner has to satisfy the court about the relevancy of the document, sought to be relied upon together with the scope of availability of the certified copy of such document, if there be any.

Whenever after production of certified copy of such document, the same is not disputed otherwise the question of calling for the original case record of a predisposed of case may not arise automatically. When there is no specific reasons disclosed regarding calling for the original case record, and when the certified copy of a particular document may be available, and when there has been exercise already undertaken by the court below with regard to similar document, after being produced by the opposite party, this Court finds no sufficient reasons to interfere with the impugned order. The impugned order does not call for any interference.

The revisional application stands disposed of.

However, this would not prevent the petitioner to apply for certified copy of the document in accordance with law for the purpose favourable to him.

Parties are directed to make communication of this order to the court below.

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.)