

Dl. September
13. 21, 2022

F.A. 104 of 2021

Ashok Kumar Samui & ors.
Vs,
Smt. Laxmi Rani Samui & anr.

Mr. Kazi Sajjad Alam,
Mr. Sayan Raul,
...for the appellants.

Mr. Gopal Chandra Ghosh,
...for the plaintiff/respondent.

Re: CAN 7134 of 2006 (stay)
filed on September 12, 2006.

Although the matter is appearing under the heading “application”, by consent of the parties, we take up the appeal itself for consideration by treating the same as on day’s list.

The present appeal has arisen out of a preliminary decree dated April 10, 2006 passed by the learned Civil Judge (Senior Division) at Arambagh, Hooghly, in Title Suit No. 28 of 2004 filed by the plaintiff/respondent no. 1 against the defendants/appellants.

The relationship between the parties are of mother and sons. The entitlement of the plaintiff/respondent in the estate of her deceased husband was attempted to be denied on the ground that the plaintiff remarried during the lifetime of the father of the defendants/appellants. This fact, however, could not be established at the trial.

In view of the aforesaid, we do not find any reason to interfere with the preliminary decree passed by the trial court. As such, the present appeal stands dismissed.

It appears from the report submitted by the learned Civil Judge (Senior Division) at Arambagh, Hooghly, that although the investigating commissioner was appointed, who submitted his report on November 13, 2019, but the commission work could not be proceeded further due to non-compliance by the plaintiff and the defendants no. 1 and 2 towards their proportionate share of the fees of the investigating commissioner. The parties are directed to comply with the direction passed by the learned Civil Judge (Senior Division) at Arambagh.

In view of dismissal of the present appeal, nothing remains to be decided in the application for stay filed under CAN 7134 of 2006 and the same is also dismissed.

There will be no order as to costs.

A copy of this order shall be forwarded by the department concerned to the learned Civil Judge (Senior Division) at Arambagh, Hooghly, on or before September 30, 2022.

The learned Registrar Administration (L & OM) of this court shall ensure compliance of this order.

dns

(Uday Kumar, J.)

(Soumen Sen, J.)