

17.01.2022
(S/L-27)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 2032 of 2021

Smt. Nandita Bhowmick
-Vs-
Smt. Chinu Chakraborty

Mr. Surya Prasad Chattopadhyay,
Mr. Arjun Samanta,
.... For the Petitioner.

Mr. Arnab Ray,
Mr. Satyam Mukherjee,
... For the Opposite Party.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendant in a suit for eviction and is directed against the order no. 38 dated November 17, 2021 passed by the 1st Court of learned Civil Judge (Junior Division), Barasat, District 24-Parganas (North) in the said suit being Title Suit on 178 of 2010.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioner praying recall of the order fixing the suit for ex parte hearing against the petitioner.

The order posting the suit ex parte against the petitioner since has been affirmed upto the Hon'ble Supreme Court, an application for recall of the said order is absolutely mala fide. The

learned Trial Judge, therefore, has rightly dismissed the said application.

Mr. Surya Prasad Chattopadhyay, learned advocate appearing on behalf of the petitioner prays that an opportunity may be given to the petitioner to cross-examine the P.W.I only for the limited purpose of demonstrating the loopholes of the plaintiff's case.

Notwithstanding the suit being posted for ex parte hearing against the petitioner, she has a limited right to cross-examine the witness of the plaintiff to bring out the weakness of the plaintiff's case without having any right to put forward any case in defence.

The learned Counsel for the parties informs this Court that February 24, 2022, is the next date fixed in the suit. On the said date the P.W. I shall make himself available for the purpose of his cross-examination by the petitioner only for the limited purpose as indicated above.

It is made clear that the said cross-examination must be concluded on the said date itself, in default, the petitioner would not be entitled to avail the opportunity of cross-examining the said witness further.

In view of the present notification of the High Court due to the outbreak of third wave of Covid-19 pandemic, if the learned Trial Judge is

unable to take up the said witness action on the said next date fixed in the said suit, the learned Trial Judge shall fix up a date for such cross-examination of P.W.I and shall conclude the same on the date so fixed.

The learned Trial Judge is requested to make all endeavour to dispose of the suit expeditiously in accordance with law and in doing so shall not grant any unnecessary adjournment to either of the parties.

C.O. 2032 of 2021 is disposed with the above terms without any order as to costs.

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

(Biswajit Basu, J.)