

07.06.2022
Item No.30
Court No.18
AJ.

C.O. 3368 of 2019

I.A. No. CAN 1 of 2020 (Old CAN 1417 of 2020)

**Sri Gangaram Sardar
-Vs-
Smt. Amita Rani Halder & Ors.**

Mr. Satyajit Mandal,
Mr. Amar nath Sen,
Mr. Shouvik Naskar,
Mr. Amit Bikram Mahata.
.....for the petitioner.

In re : CAN 1 of 2020 (Old CAN 1417 of 2020)

Mr. Satyajit Mandal, learned advocate for the petitioner files affidavit of service, which is taken on record.

None appears on behalf of the opposite parties in spite of service.

This is an application for recalling of the order dated February 03, 2020 whereby the revisional application was dismissed for default.

Perused the application. It appears that the petitioner was prevented by sufficient cause from appearing before this Court when the matter was called on for hearing.

The order dated February 03, 2020 is, therefore, recalled. C.O. 3368 of 2019 is restored to its original file and number.

CAN 1 of 2020 (Old CAN 1417 of 2020) is thus, allowed without any order as to costs.

In Re : C.O. 3368 of 2019

The revisional application under Article 227 of the Constitution of India is at the instance of the plaintiff in a suit for declaration and is directed against Order No. 90 dated August 26, 2019 passed by the 2nd Additional Court of the learned Civil Judge (Junior Division) at Diamond Harbour, District 24-Parganas (South) in Title Suit No. 105 of 2017.

The defendants are claiming their title over the suit property through the deed dated June 04, 1980 allegedly executed by the plaintiff.

The plaintiff is disputing the genuineness of the said deed inter alia on the grounds that the said deed was never executed by him. In aid of his such challenge, the plaintiff applied for appointment of a handwriting expert to compare his signature with the signature appearing in the said deed. The learned Trial Judge allowed the said prayer of the plaintiff and a handwriting expert was appointed who has submitted his report with the learned Trial Judge.

The plaintiff thereafter filed an application praying appointment of a fingerprint expert to compare his L.T.I. with the L.T.I appearing in the impugned deed alleging that the handwriting expert has not followed the proper scientific

procedure in comparing his signature with the signature appearing in the impugned deed.

The learned Trial Judge by the order impugned has dismissed the said application holding that the plaintiff should have made such prayer earlier; more so, the plaintiff would be getting the opportunity to cross-examine the expert to bring out the shortcoming of the said report.

The evidentiary value of the report of the said expert shall be considered along with the other evidences on record.

The expert has not followed the proper procedure in comparing his signature with the signature appearing in the impugned deed, may be a good ground of challenge to the veracity of the said report, but cannot be a ground for appointment of fingerprint expert.

This Court, therefore does not find any illegality and/or infirmity in the order impugned warranting interference.

C.O. 3368 of 2019 is dismissed without any order as to costs.

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

(Biswajit Basu, J.)