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Ct. 18
08.04.2022

C.O. No. 3377 of 2019

**Sri Ratan Dey @ Sri Ratan Chandra Dey & Anr.
Vs.
Smt. Malabika Kundu Nee Malabika Dey**

Mr. Lal Mohan Hajra,
Mr. Somesh Panja,
Mrs. Moutusi Hajra,
Mrs. Anuradha Hajra ... For the petitioners.

Mr. Dipanjan Datta,
Mr. Subhrajit Chowdhury ... For the opposite party.

The plaintiffs in a suit for recovery of possession are the petitioners of the present application under Article 227 of the Constitution of India, which is directed against the order dated August 19, 2019 passed by the 2nd Court of learned Civil Judge, (Junior Division) at Sealdah in the said suit being Title Suit No. 229 of 2018.

The marriage between the opposite party and the son of the petitioner no. 1 has been dissolved by an ex parte decree of divorce, however, to set aside the said decree, the opposite party has filed an application under Order IX Rule 13 of the Code of Civil Procedure, which is pending.

The petitioner no. 1 and his brother the petitioner no. 2 herein, in the meantime has filed the connected suit for eviction of the opposite party from the suit property.

The opposite party failed to file her written statement within the stipulated period of limitation.

However, she has filed such written statement after expiry of the period of limitation along with an application for acceptance of it, explaining the delay.

The learned Trial Judge, by the order impugned, has accepted the said written statement subject to payment of costs of Rs. 2000/- .

The opposite party in her application has alleged that due to non-availability of the certified copy of the said decree of divorce, the written statement could not be filed within the prescribed period of limitation.

The order impugned although is not supported by any reason but the explanation offered to explain the delay, being satisfactory, this Court is not inclined to interfere with the order impugned.

C.O. 3377 of 2019 is dismissed without any order as to costs.

The learned Trial Judge is requested to expedite the disposal of the suit in accordance with law.

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.)