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13.03.2023
Ct. No.237
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IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 12 of 2023

Smt. Mithu Pal & Anr.
Vs.
Rajendra Prasad

Mr. Soumava Mukherjee
... For the petitioners

Affidavit of service filed in Court today is taken on record. In spite of service, none appears on behalf of the opposite party.

This application under Article 227 of the Constitution of India has been filed challenging the order No.3 dated 23rd August, 2022 passed by the learned District Judge-in-Charge, Barasat, North 24-Parganas.

Heard learned advocate appearing on behalf of the petitioners.

I have had the opportunity of perusing the order No.1 dated 26th July, 2022 passed by the learned District Judge, North 24-Parganas wherein the learned District Judge recorded that court fee paid was correct and register the same as Title Appeal was filed within time. Learned District Judge also accepted the certified copy of the judgment and decree dated 27th June, 2022 and 4th July, 2022 respectively passed by the learned Civil Judge

(Junior Division), Bidhannagar, in connection with Title Suit No.264 of 2017 and the learned District Judge, thereafter, fixed 5th August, 2022 for hearing of admission of the appeal. on 5th August, 2022, the learned District Judge only fixed the next date of hearing, i.e., on 23rd August, 2022.

On 23rd August, 2022, the learned District Judge-in-Charge, Barasat, North 24-Parganas, recorded the following order:-

“It appears that the instant appeal has not been filed in a proper form. So, the instant appeal is dismissed as infructuous.”

Learned District Judge ought to have assigned the reason for dismissal of the appeal instead of ground “not proper form” or is infructuous.

In the aforesaid view of the matter, the order No.3 dated 23rd August, 2022, supported by no reason, stands set aside.

Learned District Judge, Barasat, North 24-Parganas, is requested to hear the appeal on the time of admission afresh and pass a reasoned order.

The interim order passed on 27th February, 2023 stands vacated.

With the above observation, the revisional application, being CO 12 of 2023, stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)