

10.05.2023  
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Sanjay  
Ct.237

IN THE HIGH COURT AT CALCUTTA  
CIVIL REVISIONAL APPLICATION  
APPELALTE SIDE

**C.O. 59 of 2023**

**Anjum Shamsi & Ors.**

**Vs.**

**Subir Sircar & Anr.**

Mr. Samir Kumar Dhar,  
Mr. Chittapriya Ghosh,  
Ms. Priyanka Saha ... for the petitioners.

Mr. Amitava Ghosh,  
Mr. Subhasish Sen ... for opposite parties

This revisional application has been filed assailing the order no.86 dated 6<sup>th</sup> December, 2022 passed by the learned Judge, 2<sup>nd</sup> Bench, Presidency Small Causes Court at Calcutta in Ejectment Suit No.471 of 2013 whereby the learned Judge refused the prayer in the application dated 21<sup>th</sup> September 2021 filed under Section 151 of the Code of Civil Procedure for giving an opportunity to re-examination of D.W.3 in terms of evidence recorded in course of examination in-chief. It appears from the record that D.W.3 in course of examination in-chief, several documents were marked as Exhibit 'F', 'G' and 'H' but in cross-examination all those

documents were contradicted by the D.W.3 himself. For necessary correction or alternative prayer for re-examination of D.W.3 in-chief was made before the Learned Trial Court but the Learned Judge refused to record only on the ground of knowledge of English of D.W. who put signature in English.

Having heard the learned Advocate for both the parties in the instant application and having gone through the entire examination in-chief of D.W.3 very carefully and after going through the cross-examination, I find that answer was recorded practically denying the existence of exhibited documents, viz., Exhibit 'F', 'G' and 'H'.

In the aforesaid view of the matter and for proper adjudication of the suit, I find it very much justified to allow the petitioners / defendants to re-examine D.W.3 only on the two questions mentioned in the schedule questionnaire attached to the application under Section 151 of the CPC filed on 21<sup>st</sup> September, 2021.

Considering the aforesaid facts and circumstances, the order dated 6<sup>th</sup> December, 2022 stands set aside. The petitioners / defendants are at liberty to re-examine the D.W.3 in chief only on two questions mentioned in the schedule of questionnaire attached to the application under Section 151 of the CPC.

Learned Judge is requested to re-examine D.W.3 in terms of this order and dispose of the suit after hearing arguments of both the parties without giving any unnecessary adjournments to the parties as expeditiously as possible.

With the aforesaid direction, the instant revisional application stands disposed of.

All parties shall act on the server copies of this order duly downloaded from the official website of this Hon'ble Court.

**(Bibhas Ranjan De, J.)**