

ML. 131
14.08.2023
Court. No. 19
GB

C.O. 145 of 2023

Abu Salam Gazi
Vs.
Dilsad Ali Sk. & Ors.

*Mr. Gazi Faruque Hossain,
Ms. Priyanka Mondal*

...for the Petitioner.

The petitioner is the defendant in Title Suit No.116 of 2013. The defendant is aggrieved by an order dated November 10, 2022, passed by the learned Civil Judge (Junior Division), 3rd Court at Baruipur.

By the order impugned, the recalling application filed by the plaintiff for recall of the order no.53 dated July 25, 2019 was allowed. The petitioner opposes such order on the ground that the order no.53 was an earlier order by which an application under Order 39, Rule 7 of the Code of Civil Procedure was allowed and a commissioner was appointed. Again on the same application dated August 21, 2018, another order was passed being order no.54 by which another learned commissioner was appointed. However, the writ was not issued in favour of the commissioner who was appointed by order no.53. The order no.53 was not acted upon.

As the report of the commission was already on record after the commission work was completed vide order no.54, in order to avoid technical irregularities in the proceedings, the learned court recalled the order no.53, which has not caused any injustice to any of the parties as the order no.53

had not been acted upon and the defendant did not acquire any right on the basis of such order.

I do not find any illegality in the order impugned. It was just correction of a mistake.

Accordingly, the revisional application is disposed of without any orders.

However, there will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)