

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 333 of 2023

Parbati Chorone Roquitte
Vs.
Arun Agarwal, since deceased,
represented by Pradip Agarwal & Ors.

Mr. Probal Kumar Mukherjee, Sr. Advocate
Mr. Souradipta Banerjee
Ms. Fatima Hassan
... For the petitioner

Mr. Saptansu Basu, Sr. Advocate
Mr. Vinay Kumar Purohit
Mr. Safdar Azam
... For the opposite parties

Order No.114 dated 7th June, 2022 is under challenge in this application. By the order impugned, the learned Judge, 5th Bench, Presidency Small Causes Court, Calcutta, allowed one application under Order XXII Rule 3 of the Code of Civil Procedure for substitution of legal heirs of the petitioner in connection with Misc. Case No.94 of 2014.

Mr. Probal Kumar Mukherjee, learned Senior Advocate, on behalf of the petitioner has submitted that in his written objection to the application under Order XXII Rule 3 of the Code of Civil Procedure, he raised the issue of survival of right to sue. Mr. Mukherjee has further submitted that right to sue does not survive as the petitioner of the Misc. Case, Arun Agrawalla, since deceased, was not the tenant of the subject property.

In opposition to that, Mr. Saptansu Basu, learned Senior Advocate, on behalf of the opposite parties has submitted that the learned Judge by the impugned order dealt with an application under Order XXII Rule 3 of the Code of Civil Procedure and the same was allowed only on the ground of legal heirs of Arun Agrawalla, since deceased. It is further submitted that at the time of hearing of the application under Order XXII Rule 3 of the Code of Civil Procedure, there is hardly any scope to decide the issue of right to sue in this particular case when that issue raised in the Misc. Case No.94 of 2014.

Having heard the learned Senior Advocates on behalf of the parties to this revisional application, I find that the application under Order XXII Rule 3 read with Section 151 of the Code of Civil Procedure was allowed only on the issue of legal heirs of Arun Agrawalla and that status has not been disputed in the written statement filed on behalf of the petitioner.

In the aforesaid view of the matter, I do not find any illegality and/or infirmity in the order passed on 7th June, 2022 and liable to be affirmed.

Considering the long pendency of this Misc. Case, i.e. since 2014, I request the learned Judge, 5th Bench, Presidency Small Causes Court, Calcutta, to dispose of the Misc. Case No.94 of 2014, as expeditiously as possible, preferably within three months from the date of receipt of

this order, without granting any unnecessary adjournment to any of the parties to the suit.

With the above observation, the revisional application, being CO 333 of 2023, stands disposed of.

It is reported that the 5th Bench, Presidency Small Causes Court, Calcutta, is lying vacant presently and in that case the learned Judge-in-Charge of the 5th Bench of the Presidency Small Causes Court is requested to dispose of the Misc. Case No.94 of 2014 in view of the aforesaid direction.

Learned advocates appearing on behalf of the parties are at liberty to bring this order to the notice of the learned Judge-in-Charge, 5th Bench, Presidency Small Causes Court, Calcutta, forthwith.

All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

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

(Bibhas Ranjan De, J.)