

In the High Court at Calcutta
(Civil Revisional Jurisdiction)
Appellate side

S/L No. 37
03.04.2023
Ct-237
(RD)

C.O. 357 of 2023

**Tamalika Mazumder & Ors.
Vs.
Indrani Dey & Anr.**

Mr. Ivan Roy, Adv.
Mr. Nirupam Dutta, Adv.
Mr. Sk. Abdur Rahim, Adv.

.... For the petitioner

Mr. Apurba Kr. Ghosh , Adv.
Mr. Rudranil Ghosh, Adv

... For the Respondent 1.

This revision application filed assailing the order dated 19.11.2022 as well as order dated 19.12.2022 in connection with Misc. Case No. 17/1995 under Section 47 of the Civil Procedure Code, passed by the Learned Civil Judge, 5th Court, Howrah.

From the order dated 19.11.2022 it appears that Learned Judge fixed date for argument pursuant to the direction of the Hon'ble Court in connection with CO No. 1984 of 2022 whereby Hon'ble Court directed the Learned Trial Court for fixing suitable date within two weeks from date enabling the petitioners/judgments debtors to adduce their witness as a special chance, otherwise, the Trial Judge will proceed with the case.

On receipt of that order 19.11.2022 Learned Judge took up the misc. Case. None appeared on behalf of the opposite parties. Petitioner was present asking for fixing date of argument.

Pursuant of the order of this Court learned Judge rightly fixed date on 08.12.2022 for argument.

On behalf of the petitioner/judgment debtor two applications were filed for re-calling the order dated 19.11.2022. On 19.12.2022 Learned Judge took up the applications for re-calling the order dated 19.11.2022.

Learned Judge relying on the direction of the Hon'ble Court in CO No. 1984 of 2022 refused to re-call the order dated 19.11.2022.

Learned advocate appearing on behalf of the petitioners/judgement debtors assailed the order on the ground of wrong address of the witness where summons was served and on that ground on behalf of the petitioners/judgement debtors prayer was made for further opportunity for issuance of summons upon the witness in the correct address.

I do not find any infirmity or irregularity in the impugned orders passed in terms of the specific direction of this Court.

Considering all facts and circumstances discussed hereinabove, I am of the humble opinion that a final opportunity should be given to the petitioner to produce his witness within a week from the date of communication of this order to the learned Trial Court who is also requested to take evidence, if witness is produce, and to dispose of the Misc. Case arose out of section 47 of the Civil Procedure Code without giving any further opportunity, whatsoever, to either of the parties within one weeks thereafter.

With the aforesaid observation the revision application being no. Co No. 357 of 2023 stand disposed of, subject to payment of costs of Rs. 20,000/- to be deposited with the high Court Legal services Authority.

All parties are directed to act on a server copy of this order downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Bibhas Ranjan De)