

IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

CRR 576 of 2020

Anup Karmakar

Vs

Basudeb Karmakar & Ors.

For the Petitioner : Mr. Laxminath Bhattacharya.

For the Opposite Party No. 1 to 4 : None.

For the State : None.

Heard on : 31.01.2023

Judgment on : 13.02.2023

Shampa Dutt (Paul), J.:

The present revisional application has been preferred against an order dated 22.07.2019 passed by the Learned Judicial Magistrate, 9th Court, Alipore in a proceeding being C-841/08.

On 22.07.2019, the petitioner filed an application for inspection of certain documents i.e. the maintenance deed executed by Panchanan Karmakar in favour of Khiroda Dasi in lieu of Rs. 800/- and tax bill of the suit property No. 18/1/1D, Nakuleswartala Lane, Kolkata – 700 026, P.S. Bhawanipur now Kalighat **as the said documents were relied upon in the judgment of the Hon'ble Court in S.A. 188 of 1982** and the said documents will also play a vital role in adjudication of the instant criminal case being part and/or documents relied upon in the judgment and decree. In the partition suit being No. 14/2007 these documents were sought from the opposite parties but they failed to produce it and as such the suit and appeal has been dismissed. However the Learned Trial Court without going through all these aspects rejected the application holding that the petitioner wants to inspect the documents only to cause delay.

Mr. L. Bhattacharya, learned Counsel for the petitioner submits that the Learned Court erred in law in dismissing the application without assigning the proper reasons.

The Learned Trial Court erred in law in not considering the petition of the petitioner for inspection and without considering the evidences of record.

The Learned Court erred in law in dismissing the application without considering that the petitioner only wanted to inspect the documents for proper adjudication of the dispute and thus the order of the Learned Court is in excess of the jurisdiction vested in it by law.

The Learned Court failed to appreciate that previously the opposite parties have failed to supply the documents and now they are again relying on the same documents and thus reliance on those document without the petitioner having a chance to inspect the same will cause prejudice to the petitioner.

That the order impugned is otherwise bad in the eye of law and liable to be set aside.

Heard the Learned Counsel for the petitioner and considered the materials on record.

The petitioner filed an application before the Learned Magistrate **praying for inspection of the documents mentioned in the judgment of the High Court.** The Judgment was relied upon by the opposite party.

The Learned Magistrate vide his order dated 22.07.2019 rejected the said petition.

Hence the revision.

Admittedly the copy of the judgment of the High Court has been marked Exhibit 'A' and not the documents relied upon in the said Judgment.

The prayer of the petitioners praying for inspection of the documents relied upon in the judgment was not maintainable before the Magistrate **as those documents are not part of the case records in the proceeding pending before the Magistrate.** Which thus clearly rules out the scope of inspection.

Thus the order under revision passed by the Learned Magistrate rejecting the prayer for inspection of the documents not in the case records before the court is in accordance with law and needs no interference by this Court.

The order dated 22.07.2019 passed by the Learned Judicial Magistrate, 9th Court, Alipore, in a proceeding being C-841/08 is hereby affirmed, being in accordance with law.

The documents were relied upon in the judgment of the High Court. The judgment has been admitted in evidence and marked Exhibit 'A'. The said documents were part of the records which was adjudicated by the High Court and which finally resulted in the judgment, certified copy of which is marked Exhibit 'A'.

Thus the prayer in this revision is clearly an abuse of the process of Court/law.

CRR 576 of 2020 is thus dismissed.

Learned Magistrate to proceed expeditiously in the proceedings before the Court.

No order as to costs.

All connected Application stand disposed of.

Interim order if any stands vacated.

Let a copy of this judgment be sent to the learned Trial Court forthwith for necessary compliance.

Urgent Photostat Certified copy of this Judgment, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)