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CO No. 836 of 2023

**Primerose Agency Private Limited
versus
M/s. Intrasoft Technologies Limited & Ors.**

Mr. Sukanta Chakraborty,
Mr. Prasanta Naskar,
Mr. Anindya Halder For the petitioner.

Mr. Subhankar Nag,
Mr. Snehashis Sen.

... For the opposite parties.

Affidavit-of-service filed by the petitioner be taken on record.

The revisional application has been filed challenging the two orders dated 16.1.2022 and 16.12.2022 passed by the learned Civil Judge (Senior Division), 10th Court, Alipore in connection with Money Suit No.10 of 2015.

By these two orders learned Judge expunged the evidence of PW-2 on the ground of non-compliance of the order of the Court for payment of cost and also on the ground of adjournment petition not being substantiated by any document. By the next order i.e. 16.12.2022 learned Judge refused to recall its own order dated 16.11.2022 and also for remission of cost imposed by the order dated 9th June, 2022 on the ground of intentional dragging of the case by the petitioner/plaintiff.

Learned advocate appearing on behalf of the petitioner/plaintiff has tried to make this Court

understand that the suit was adjourned on different occasions on the ground of resolution of local Bar, Covid-19 Pandemic and further on the ground of absence of PW-2 because of out station in connection with official business.

Learned advocate appearing on behalf of the opposite party/defendant has referred to some copy of the orders and submitted that there is laches on the part of the plaintiff/petitioner to produce PW-2 for his examination on successive occasions.

This money suit filed by the plaintiff/petitioner and it is also an admitted fact that one witness i.e. PW-1 has already been examined and PW-2 could not be produced due to his non-availability and for which cost was imposed.

It is also not disputed that prime object of this money suit is to adjudicate the issue in presence of both sides.

In this circumstances, an opportunity should be given to the petitioner/plaintiff to adduce evidence of PW-2 but on a particular date fixed by the learned Trial Court and on that date learned Trial Court would be at liberty to pass necessary order in case of absence of witness.

So far as payment of cost is concerned, I have perused the orders passed by the Trial Court, giving opportunity to the petitioner/plaintiff to pay the cost of Rs.5000/- and it is clear from the record that

petitioner/plaintiff not only avoided the payment of cost but also filed an application with a prayer for remission of cost.

In these circumstances, I find that costs of Rs.5000/- should be increased to Rs.10,000/- with a direction upon the petitioner/plaintiff to deposit the amount before the Trial Court.

However, petitioner/plaintiff is directed to pay the cost of Rs.10,000/- before the Trial Court in compliance with the order dated 9th June, 2022 within three days from the date of this order.

With the aforesaid observation the revisional application stands disposed off with the request to the learned Trial Judge to fix a date for evidence of PW-2 and record the evidence on that particular date otherwise learned Court will be at liberty to pass consequential order.

Parties are directed to make communication of this order to the learned Civil Judge (Senior Division), 10th Court, Aliopre.

All the parties shall act on the server copy of this order duly downloaded from the official web site of this Court.

(Bibhas Ranjan De, J.)