

ML 4
05.06.2023
Court. No. 19
GB

C.O. 1134 of 2023

Sri Sudip Kumar Mitra
Vs.
Nirmal Kumar Agarwal & Ors.

Mr. Souvick Mitra

...for the Petitioner.

The defendant/petitioner has filed the revisional application for expeditious disposal of the Title Suit No.570 of 2011 pending before the learned 12th Judge, City Civil Court at Calcutta.

According to the petitioner, the suit is for specific performance of contract. When the plaintiff tendered the agreement for sale as an evidence, the learned court accepted the document and marked the same as an exhibit but did not consider the objection of the petitioner filed under Section 35 of the Indian Stamp Act, 1899. The objection was kept pending. A revisional application was filed by the petitioner, which was registered as C.O. No.2861 of 2019. A coordinate Bench of this Court by an order dated September 5, 2019 allowed the revisional application by setting aside the order impugned and directed the trial court to decide the application of the petitioner under Section 35 of the Indian Stamp Act on merits, before proceeding with the suit. It was further directed that in case the petitioner succeeded, the trial court would be at liberty to recall the order marking the document as an exhibit and direct impoundment of the said document prior to the same being exhibited in accordance

with law. The learned co-ordinate bench, in effect, directed that the evidentiary value of the document tendered by the plaintiff would be considered on the basis of the objections raised by the petitioner with regard to the acceptance of a insufficiently stamped agreement for sale.

It is submitted that the said application is pending since 2019 and suit has not progressed. The order sheet does not indicate that the petitioner was responsible for the delay. Thus, this Court directs the learned 12th Judge, City Civil Court at Calcutta to complete the hearing of the application under Section 35 of the Indian Stamp Act, 1899 as directed by a coordinate Bench, within a month from the next date fixed and thereafter proceed with the suit in accordance with law and dispose of the same within a year thereafter.

As the suit is of 2011, the Court is of the view that expeditious steps should be taken by the learned court to mandatorily comply with the time frame given by the Court.

This order is beneficial for both the parties who have been contesting the litigation since 2011. Hence the order for expeditious disposal is being passed to render complete justice to the parties.

The petitioner is directed to serve a copy of the revisional application as also a server copy of this order upon the opposite parties and the learned court below shall proceed in accordance with law.

This court has not gone into the merits of the application filed by the petitioner.

Accordingly, the revisional application is disposed of.

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.)