

14.03.2023

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**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 1440 of 2022

Smt. Mandira Das

versus

Supravat Mondal & Ors.

Mr. Mrityunjoy Goswami

Mr. Parikshit Goswami

... For the petitioner/
opposite party no. 8(ii)/ objector.

Mr. Ashim Kumar Routh

Ms. Ananya Mondal

... For the opposite party no. 1.

This revisional application has been filed by petitioner (opposite party no. 8 (ii)/objector) challenging order No. 117 dated 5th May, 2022 passed by the learned Judge, Fast Track, 4th Court at Barasat in O.S. No. 25 of 2008 rejecting the prayer for adjournment sought for by the petitioner.

The fact of the case is that the applicant-opposite party no. 1 filed an application for grant of probate of the Will dated 12th August, 2008 executed by Smt. Raju Bala Mondal. The petitioner (opposite party no. 8 (ii)/objector) filed an application for report of hand-writing expert, which was allowed by the learned trial Court and report was submitted by hand writing expert. Such report of handwriting expert was received by the Court on 8th April, 2019. The petitioner sought for adjournment for adducing

defence witnesses on 5th May, 2022 since she was in search of new documents, which could be placed for comparison of signature of testatrix before the handwriting expert. The application for adjournment sought for by the petitioner (opposite party no. 8 (ii)/objector) was rejected by the learned trial court. Hence this revision.

Mr Mrityunjoy Goswami, learned advocate for the petitioner (opposite party no. 8 (ii)/objector) submits that the petitioner took endeavour to place on record the signatures of testatrix appearing in the written statement and written objection filed in Title Suit 698 of 1996 before the learned Civil Judge (Senior Division) at Barasat sometimes in the year 2001 but since the record was misplaced she could not obtain the certified copy of the said document which the petitioner intended to place before the handwriting expert for comparison of signature of testatrix due to which further time was required, however that was not acceded to by the learned trial court. He further submits that for the just decision of the case, such comparison of signatures of the testatrix appearing in the written statement and the written objection filed in Title Suit No. 698 of 1996 is very much- required and therefore, the impugned order should be set aside for the interest of justice and the petitioner be given

an opportunity to proceed further in accordance with law.

In reply to the contention raised on behalf of the petitioner, Mr. Ashim Kumar Rauth, learned advocate appearing for opposite party no. 1 submits that at the instance of the petitioner the report of the handwriting expert was called for and submitted on 8th April, 2019 and since submission of such expert's report the petitioner got ample opportunity to dispute and raise issues against the report of handwriting expert. However, the petitioner in spite of getting opportunity failed to take appropriate steps and only in order to drag the proceedings has resorted to dilatory tactics. In light of his above submissions, he prays for dismissal of this application.

Upon perusal of the impugned order under challenge, it appears that the petitioner (opposite party no. 8 (ii)/objector) submitted before the trial court that she intends to compare the signatures of testatrix, Smt. Raju Bala Mondal, appearing in the written statement and the written objection filed in Title Suit No. 698 of 1996 before the learned Civil Judge (Senior Division) at Barasat filed sometimes in the year 2001 but since the record was not found she could not obtain the certified copy of the aforesaid documents and therefore further time was required. Now it is to be seen how far such prayer seeking time

was *bonafide* and reasonable. At the outset, it is pertinent to note that the petitioner did not specify the date on which the application for obtaining certified copy of the aforesaid documents were made. During the course of hearing also learned advocate for the petitioner failed to apprise the Court regarding date of application for obtaining certified copy of the documents or whether at all such application was made. The report of the handwriting expert was received by the trial court on 8th April, 2019. However, inspite of getting opportunity the petitioner failed to take appropriate steps with regard to comparison of signature of testatrix. It is further relevant to note that no such ground has been made out in the application for adjournment dated 5th May, 2022, disclosing the documents the signature upon which are to be compared before the handwriting expert.

In view of the aforesaid, this Court does not find any impropriety in the order passed by the learned trial court in rejecting the prayer for adjournment filed by the petitioner.

Accordingly, the revisional application, being **C.O. 1440 of 2022**, stands dismissed.

Connected application, if any, stands disposed of.

Interim order, if any, stands vacated.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Bivas Pattanayak, J.)