

21.09.2023
Court No. 19
Item no.06
CP

C.O. No. 1413 of 2023

Pratapdighi Calvery Welfare Society
Vs.
Sri Jayanta Kumar Maity & anr.

Mr. Jayanta Kumar Das
Ms. Madhumanti Das
.....for the petitioner.

Mr. Uttam Kr. Bhattacharya
Mr. Kaustav Mishra
....for the opposite party no. 1.

For the ends of justice, this court is of the view that the order dated January 10, 2023, passed by the learned Civil Judge (Junior Division), 2nd Additional Court at Contai, in Title Suit No. 59 of 2017, requires modification.

The learned court below rejected the application filed on behalf of the plaintiff, for recording of the evidence of one Mr. Michael Forster, an important witness of the plaintiff, through video conferencing. Mr. Forster resides in Switzerland.

It has been submitted that Mr. Forster had not been keeping well and is unable to travel.

The only ground for rejection of such prayer for recording of evidence by video conferencing, was that an application in the prescribed form, as per the rules of the Hon'ble High Court at Calcutta, had not been filed.

This court is of the view that the learned Trial Judge ought to have given an opportunity to the plaintiff to file the said application in a proper form so that the evidence of Mr. Michael Forster, both chief and cross-examination, could be done via video conferencing.

The order impugned is modified to the extent that the plaintiff will file the application in the prescribed form, within two weeks from the date of communication of this order. On the basis thereof, the learned court below shall fix the relevant dates for recording of such evidence.

This order shall not be construed as an opinion of this court either on the merits of the suit or on the merits or nature of the evidence to be recorded.

It is made clear, that the time limit to be fixed by the learned court below shall be mandatorily adhered to by all the parties.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)