

26.9.2023

ct. 236

sk,sl. 5

C.O. 1889 of 2007

CAN 3 of 2019

Md. Giasuddin Sk. & Ors.-vs-Tamijuddin Sk.

1. None appears on behalf of the petitioners.

2. The matter is appearing almost after 16 years.

3. The Hon'ble Supreme Court in Robin Thapa
Vs Rohit Dora, reported in AIR 2019 S.C.C. 3225

held that:

“8 Ordinarily a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default, either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits”.

4. The revisional application impeaches the Order No. 191 dated 4.11.2006 passed by the learned Civil Judge(Junior Division), Additional Court of Jangipur, District-Murshidabad in Title Suit No. 31 of 1989.

5. By the order impugned learned trial court was pleased to refuse the prayer for amendment with regard to the Title Deed executed and registered on 7th May, 1984, on the ground that learned Additional District Judge while adjudicating the Title Appeal No. 12 of 1998 directed the learned trial court to send the deed in question to the hand writing expert in order to compare the signature and L.T.I. with the signature and LTI of Exhibit-A, i.e. Deed No. 1951 dated 4.7.1970. Therefore, learned trial court did not entertain the application for amendment by which the

substituted plaintiffs wanted to replace the Deed No. 7173 dated 7.5.2004 by the Deed No. 3281.

6. The order impugned if considered in contradistinction with the direction of learned Appellate Court in Title Appeal No. 12 of 1998, leaned trial court had no option but to reject the same.

7. Upon perusal on record I find that no order of stay was granted. An application under Order 22 Rule 10 of the Code of Civil Procedure was filed which indicates that there was devolution of interest by way of transfer.

8. Under such circumstances, I do not find any reason to hold that the order impugned suffers from any jurisdictional error.

9. The revisional application merits no consideration.

10. That apart the conduct of the petitioners indicates the lack of interest of the petitioners to proceed with this application.

11. The revisional petition along with CAN application are thus, disposed of, however, without cost.

12. The interim order, if any, stands vacated.

(Siddhartha Roy Chowdhury, J)