

26.9.2023

ct. 236

sk,sl. 6

C.O. 2430 of 2007

CAN 1 of 2015, CAN 2/2015, CAN 3/2020,
CAN 4/2020

Prabir Sarkar & Anr.-VS-Joydev Bhaskar

1. None appears on behalf of the petitioners.

2. The matter is appearing almost after 17 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. This application under Article 227 of the Constitution of India challenges the order dated 17th March, 2007 passed by the learned Civil Judge (Junior Division), Lalbagh, Murshidabad in Miscellaneous Case No. 5 of 2005.

5. Upon perusal of materials on record, I find that in a proceeding under Section 8 of the West Bengal Land Reforms Act, 1955 by the impugned order learned trial court was pleased to reject the prayer for local inspection.

6. The petitioner filed an application for local inspection to take note of certain features of the property.

7. In my humble opinion for adjudication of an application under Section 8 of the West Bengal Land Reforms Act, 1955 the local feature of the property sought to be pre-empted is not required to be brought on record by way of local inspection.

8. Therefore, learned trial court was well within its jurisdiction while passing the order impugned.

9. The order impugned cannot be held to be perverse.

10. This application under consideration is devoid of merit and is dismissed, however, without cost.

11. The CAN applications are disposed of.

12. Interim order, if any, stands vacated.

(Siddhartha Roy Chowdhury, J)