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C.O. 2476 of 2022

**Smt. Anjana Bose
Vs
Sri Sovanlal Roy & Ors**

Mr. Ajoy Krishna Das,
... For the petitioner.

Mr. Siddhartha Lahiri,
Mr. Debraj Dutta,
... for the opposite parties.

The rejection of a prayer for maintainability is under challenge in this case.

Irrecoverable power of attorney dated 7th August, 2021, according to the petitioner is submitted to have been revoked, upon execution of a registered instrument, serving a copy of the same well in advance to the opposite parties.

It is submitted by the learned advocate for the petitioner that the defendant may not be required to go for trial, when the power of attorney itself has been revoked.

The findings thus reached by the Court below while rejecting the maintainability issue, according to the petitioner, is not according to law.

Per contra, Mr. Siddhartha Lahiri, learned advocate appearing for the opposite party/plaintiff submits that the very sub-stratum, put up in the written statement, is centering round the revocation of power of attorney. It is thus incidentally submitted

that validity and legality of the revocation of power of attorney is only to be decided by the Court below, if necessary upon framing a necessary issue for the purpose.

Upon perusal of the impugned order, it appears that at the pre-trial stage, the Court below was not willing to decide the maintainability of the petition filed by the petitioner/defendant, without collecting necessary documents in aid of evidence to be adduced by the opposite parties in this case.

When legality and validity of the revocation of power of attorney is disputed, this Court is of the view that the same may be best decided upon conducting a trial for the purpose.

Parties are given liberty to adduce evidence both oral and documentary to that effect so that the maintainability issue may be addressed by the Court below appropriately.

While framing issues, the relevant issue pertaining to maintainability of the suit may be framed and address the same in accordance with law.

The suit being instituted in the year 2008, may be expedited so that the logical conclusion of the suit may be reached at an early date without granting unnecessary adjournment, unless it is extremely unavoidable.

Parties are directed to make communication of this order to the learned Court below.

With this observation and direction, the revisional application stands disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties on usual undertakings.

(Subhasis Dasgupta, J)