

October 5, 2023
Sl. No.13
Court No.19
s.biswas

CO 2574 of 2023

Sri Subal Saha and another
vs.
Bharati Ghosh and another

Mr. Dipanjan Bhattacharya

... for the petitioners

Mr. Pritam Choudhury

Mr. Abhishek Addhya

... for the opposite parties

This revisional application arises out of an order dated June 16, 2023 passed by the learned Civil Judge (Senior Division), 1st Court at Barasat.

By the order impugned, the learned court rejected an application filed under Section 151 of the Code of Civil Procedure, by the petitioners/plaintiffs. The plaintiffs were directed to submit the deficit stamp duty on the basis of the report of the collector dated August 12, 2022.

The plaintiffs had prayed for re-assessment of the stamp duty for the third time. The said application was rejected. The plaintiffs had filed a suit for specific performance of contract on the basis of an unregistered agreement. The said agreement was sent to the Collector for assessment of the deficit stamp duty on the plaintiffs' request. A report was filed upon such assessment. The plaintiffs objected. By an order dated April 25, 2017, again the Collector was requested to reassess the stamp duty. The collector submitted the report after reassessing the

duty. Being dissatisfied, for the third time, the plaintiffs prayed for reassessment. The learned court held that Section 40 of the Indian Stamp Act empowered the Collector to assess the deficit stamp duty in respect of the documents which had not been properly stamped. No further opportunity should be give to the plaintiffs to seek further reassessment.

The learned advocate submits that law provides a mechanism by which the assessment of the Collector can be challenged. Thus, the learned court below should have allowed the application under Section 151 of the Code of Civil Procedure.

In my opinion, two opportunities were given to the petitioners and the Collector had filed the reports.

Under such circumstances, no order is required to be passed. The order impugned does not suffer from any illegality. This order is restricted to the decision as to whether the refusal of the application under Section 151 of the Code of Civil Procedure was justified or not. The order impugned is justified and does not call for interference.

This order shall not affect the rights of the petitioner in any other proceeding.

The revisional application is thus disposed of.

All the parties are directed to act on the basis of the server copy of the order.

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

(Shampa Sarkar, J.)