

June 26, 2023
Sl. No.07
Court No.19
s.biswas

CO 3354 of 2022

Smt. Runu Ghosh

vs.

Sri Sisir Mukherjee

Mr. Subhendu Bandyopadhyay

Mr. Arindam Mitra

... for the petitioner

Mr. Tanmoy Mukherjee

Mr. Souvik Das

Mr. Rudranil Das

... for the opposite party

Affidavit of service filed by the petitioner is taken on record.

The petitioner is aggrieved by an order dated August 29, 2022 passed in Title Suit No.410 of 2019 by the learned Civil Judge (Junior Division), Additional Court, Hooghly. By the order impugned, the learned court below directed that if the plaintiff could not produce the deed of settlement being No.4173 of 1960, as prayed for by the defendant in the suit, the plaintiff would not be in a position to rely upon the said deed at any stage of the proceedings, as an evidence.

Aggrieved, learned advocate appearing on behalf of the petitioner submits that the original deed is not in the custody of plaintiff/petitioner. The deed is more than 63 years old and the original deed is in the custody of the vendor of the petitioner. The certified copy of the said deed is with the petitioner.

The order impugned is modified to the following extent:

- a) the plaintiff will produce the certified copy of the deed being No.4173 of 1960 along with an application, mentioning the reasons as to why the original deed could not be produced before the learned court below;
- b) the learned court below shall accept the said certified copy and allow inspection of the same. The deed shall be returned thereafter to the plaintiff;
- c) the plaintiff shall be entitled to tender the such document as a secondary evidence by following process of law at the appropriate stage.

The observation of the learned court that the plaintiff will not be in a position to rely on the said deed at any stage, in case of non-production of the original deed, is set aside.

The revisional application is thus disposed of.

(Shampa Sarkar, J.)