

Item No. 7
09.06.2023
Court. No. 19
GB

C.O. 3567 of 2022

Raquib Ahmed
Vs.
Md. Nasir Ahmed

*Mr. Tarique Quasimuddin,
Mr. Zainab Tahir*

...for the Petitioner.

Mr. Debdipto Banerjee

...for the Opposite Party.

The petitioner is aggrieved by an order dated September 26, 222 passed by the learned Civil Judge (Junior Division) at Sealdah in Title Suit No.216 of 2003. By the said order the evidence of the D.W. was closed.

The petitioner alleges that the learned court below acted illegally and with material irregularity in closing the evidence of the DW, who is the sole witness and the sole defendant in the suit for declaration and recovery of possession.

It is submitted that due to illness of the DW/petitioner, adjournments had been prayed for and evidence could not be adduced. It is further submitted that medical documents along with the application for adjournment had been filed in the learned court below. The learned court below did not consider the said documents and closed the evidence of DW.

The learned advocate for the plaintiff denies such allegations and submits that on five occasions, adjournments had been prayed for and the suit is at the stage of arguments.

Having considered the merits of the contentions between the parties, this Court is of the view that if the evidence of the sole witness/defendant is closed, then the said defendant will be losing a valuable right while contesting the suit.

Under such circumstances, the order dated September 26, 2022 is set aside. However, this Court is of the view that the plaintiff should not suffer for the repeated adjournments that had been taken. This Court is of the view that a cost of Rs.5,000/- should be paid to the plaintiff by the defendant/petitioner. Such cost shall be paid to the learned advocate on record for the petitioner, Mr. Debdipto Banerjee, within a week. Mr. Banerjee shall grant a receipt. The learned court below, upon being satisfied that the amount had been paid by the defendant, shall allow the evidence of the defendant. The examination-in-chief and cross-examination of the DW shall be concluded within a month from the next date fixed. Thereafter, arguments shall proceed as already directed by the court.

It is requested that the suit which is of 2003 be disposed of within a period of four months from the closer of the evidence of DW.

This Court has not gone into the merits of the suit and the learned court shall proceed in accordance with law and independently.

Accordingly, the revisional application is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)