

Item No. 13
04.10.2023
Court. No. 19
GB

C.O. 3572 of 2022

Mangala Bhowmick
Vs.
Sankar Mallick

Mr. Sanjib Kumar Ghosh

...for the Petitioner.

The revisional application arises out of an order dated August 1, 2022, passed by the learned Civil Judge (Junior Division), 1st Court at Alipore in Title Suit No.399 of 2013.

By the order impugned, the learned court below dismissed an application for rejection of the plaint filed by the petitioner. The petitioner is the defendant in the suit. The petitioner's contention was that the suit was for declaration and cancellation of the deed of gift. The same was under valued as the market value of the property would be the relevant consideration in calculating the valuation of the suit and the court fees to be paid.

The learned court, by applying some decisions of the Hon'ble Apex Court came to the finding that a bare reading of the plaint, would indicate that a non-executant prayed for a declaration that the deed of gift executed between the defendants was null and void, non-est and liable to be cancelled. Hence, the court fees paid was correct. Only when an executant wanted the deed to be annulled and cancelled as the main relief, the court fees should be paid on the market value.

In this case, the plaintiff prayed that the deed was invalid, non-est and liable to be cancelled. Thus, the plaint should not be rejected, at the threshold.

Reference is made to the decision of this court in the matter of ***Sri Umapanda Jaiti & ors. vs. Sri Manas Jati & ors.*** decided in ***C.O. No.4601 of 2015***, on such proposition of law.

This Court does not find any reason to interfere with the order impugned.

Accordingly, the revisional application is dismissed.

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

(Shampa Sarkar, J.)