

22.08.2023
Sl. No.8(DL)
srm

C.O. No. 1475 of 2020

Smt. Madhabi Bala alias Madhabi Das

Versus

Bimaal Chandra Das & Ors.

Mr. Partha Pratim Ray,
Mr. Sarbananda Sanyal,
Ms. Poulami Chakraborty

...for the Petitioner.

Mr. Shibasis Chatterjee

...for the Opposite Party Nos.1(a) to 1(c).

The revisional application arises out of an order dated January 3, 2019 passed by the learned Civil Judge (Junior Division), 1st Court at Jangipur, Murshidabad in Title Suit No.54 of 2014. The said order was affirmed by the learned Additional District Judge, 1st Court at Jangipur, Murshidabad, in Civil Revision Case No.2 of 2019.

First and foremost, the aggrieved party did not have any right under the law to approach the revisional court in view of the proviso to Section 115 of the Code of Civil Procedure.

Coming to the facts of the case, it appears that an application was filed by the petitioner for appointment of a scientific expert for comparison of the LTI of Chapalabala Das in two deeds, namely, the deeds executed on November, 8,

1993 and October 19, 1993. The learned trial judge rejected the said application on the ground that both the deeds were disputed deeds and the LTI of Chapalabala Das in one deed could not be compared with that of Chapalabala Das in another deed when parties had not admitted either of the two deeds.

Mr. Roy, learned Advocate for the petitioner submits that as the deed dated November 8, 1993 executed in favour of the plaintiff, was denied in the written statement. Hence such prayer was made.

Mr. Chatterjee, learned Advocate for the opposite party Nos.1a to 1(c) submits that none of the deeds which were referred to in the application for appointment of a scientific expert were admitted by the parties. Hence the question of comparison would not arise.

In the absence of any admitted deed containing the LTI of Chapalabala Das, it was rightly held by the learned trial judge that scientific examination of the LTI in the two unadmitted disputed deeds, could not be allowed.

This Court does not find any irregularity in the order impugned and the order impugned is upheld.

The revisional application is, thus, dismissed.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)