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11.04.2023
SB
Ct. No. 2

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

C.O. 29 of 2023

Smt. Gita Sutradhar & Anr.
-versus-
Sri Rabi Chandra Sutradhar

Mr. Bhaskar Roy Mahashaya
Mr. Deborshi Dhar ... for the petitioner

This is an application under Article 227 of the Constitution of India.

Endorsement of Registry showed no Caveat was lodged.

None appeared for the opposite party.

The plaintiff / opposite party had filed a suit for specific performance of an agreement for sale of an immovable property being the suit property in Title Suit No. 01 of 2019 instituted before the learned Civil Judge (Senior Division), Alipurduar. The indenture / agreement on the basis whereof the plaintiff / opposite party claimed specific performance was not a registered document.

Since the agreement relates to transfer of an immovable property allegedly done and executed by the defendant / petitioner herein in favour of the plaintiff / opposite party, such document was mandatory required to be registered by putting the ad valorem

stamp duty strictly in accordance with law. In absence of such registration the document could not be accepted as evidence.

By the impugned order no. 24 dated November 25, 2022 passed in Title Suit No. 01 of 2019, the learned Civil Judge (Senior Division), Alipurduar had directed the document to be impounded strictly in accordance with law. However, while passing the order the learned Civil Court had used a mistaken expression that the unregistered document for sale dated December 3, 2017 ***is impounded*** instead the document should have been sent for impounding before the learned District Collector, Alipurduar. **Accordingly, the said document for sale dated December 3, 2017 is directed to be sent to the District Collector, Alipurduar, who in turn, strictly in accordance with law, shall impound the document and file a report before the learned Civil Judge (Senior Division), Alipurduar in Title Suit No. 01 of 2019 positively on or before June 11, 2023. The District Collector after impounding and completing the necessary procedure shall send back the document to the learned Trial Court.**

Save as above, the other portions of the order dated November 25, 2022 shall remain unaltered and without any modification.

All further proceeding in Title Suit No. 01 of 2019 shall remain stayed until the said report is filed by the learned District Collector, Alipurduar and the said document for sale is impounded in accordance with law, as directed above.

With the above directions, the revisional application being **C.O. 29 of 2023** stands disposed of, without any order as to costs.

(ANIRUDDHA ROY, J.)