

S/L 37
11.9.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 156 of 2024

Sri Saptarshi Chowdhury

Vs.

Smt. Minati Bhattacharjee & Ors.

Mr. Kushal Chatterjee

Mr. Shibjit Mitra

...for the Petitioner.

Mr. Probal Kumar Mukherjee, Sr. Adv.

Ms. Shreyasi Manna

...for the Opposite Parties.

Affidavit of service filed on behalf of the petitioner
be kept with the record.

The petitioner has approached this Court with a peculiar grievance that he is unable to file an appeal against the *ex parte* judgment and decree dated April 02, 2008 passed by the 2nd Court of learned Civil Judge (Junior Division), Howrah in *Title Suit No.72 of 2005* as the registry of the learned District Judge, Howrah has declined to receive the Memorandum of Appeal and the applications thereto on the ground that the petitioner is not a party to the connected suit.

To prefer an appeal against the said *ex parte* decree, the petitioner needs to obtain the leave of the Appeal Court as he is not a party to the connected suit; such leave is not automatic, it depends on the satisfaction of the Appeal Court that the petitioner is indeed affected by the said decree.

The learned District Judge is therefore requested to consider the application of the petitioner for leave to file such appeal and subject to the outcome of such exercise, to take follow up steps in accordance with law.

However, it is made clear that this Court has not gone into the merit of the entitlement of the petitioner to get the leave to prefer such an appeal; all points including the maintainability of the said appeal are kept open.

CO 156 of 2024 is thus disposed of without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Biswajit Basu, J.)