

31.01.2024
Court No. 19
Item no.18
CP

C.O. No. 185 of 2024

Palash Mondal
Vs.
Sri Pratap Das & Ors.

Mr. Sounak Bhattacharya
Mr. Sounak Mandal
....for the petitioner.

Mr. Debjit Mukherjee
Ms. Susmita Chatterjee
Mr. Kaustav Bhattacharya
Ms. Priyanka Jana

.....for the opposite parties.

The revisional application arises out of an order dated December 21, 2023, passed by the learned Civil Judge (Junior Division), 4th Court, Howrah in Title Suit No. 280 of 2010. The learned court rejected the application under Section 32 read with Section 151 of the Code of Civil Procedure and directed the parties to proceed with the arguments.

The petitioner is the defendant no. 3 in the suit who filed the application for issuance of a warrant upon the power of attorney holder Sri Sunil Kr. Chatterjee. The learned court held that the service of summons was not in terms of the provisions of Section 30 of the Code of Civil Procedure as the summons had come back with the endorsement 'insufficient address'.

The petitioner has annexed photocopies of the summons and the postal receipt and submitted that the learned court had wrongly recorded non-service of summons although the postal track report would show that the item was delivered.

This court is not inclined to go into such factual controversy at this stage but grants liberty to the petitioner to approach the learned court below for issuance of summons afresh upon Sri Sunil Kr. Chatterjee.

The learned court below shall allow such prayer in accordance with law and await the report. If Sri Sunil Kr. Chatterjee does not appear before the learned court upon receipt of summons/delivery of summons, then the petitioner will be entitled to renew his prayer for issuance of warrant as the petitioner wants to examine the power of attorney holder as a summoned witness.

The revisional application is accordingly disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)