

March 12, 2024
Sl. No.31
Court No.19
s.biswas

CO 285 of 2024

Sk. Jahangir and others
vs.
Munni Begum and others

Ms. Shohini Chakraborty
Ms. Prajaaini Das

... for the petitioners

Mr. Biswajib Ghosh
Md. Hanif
Mr. Sk. M. Ali

... for the opposite party nos.1 to 5

The petitioners challenge the orders dated November 18, 2023 and January 6, 2024 passed by the learned Civil Judge (Senior Division), 3rd Court at Alipore, South 24 Parganas acting as Judge-in-Charge of Misc. Case No.212 of 2016. The Misc. Case 212 of 2016 arose out of Title Suit No.10 of 1966.

By the orders impugned, the learned court firstly rejected the application for adjournment of the misc. case and thereafter by the subsequent order dated January 6, 2024 refused to recall the order dated November 18, 2023. The evidence of PW1 was closed.

It appears that the misc. case was not before the regular court and the adjournment application which was filed before the regular court was not moved before the learned Judge-in-Charge. Accordingly, the learned Judge-in-Charge closed the evidence of PW1.

It is submitted that it was a mistake on the part of the learned advocate who did not move the adjournment application. The petitioners who are the decree holders in the suit of 1966, should not be deprived of the opportunity to cross-examine the PW1, who has filed the misc. case after 10 years from the decree.

I appreciate the contention of the petitioners and in my opinion, one last chance should be given to the petitioners to cross-examine PW1 and such cross-examination shall be completed within a month from the date fixed by the learned court, peremptorily.

The order impugned is set aside.

The revisional application is accordingly disposed of.

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

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

(Shampa Sarkar, J.)