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Ct. 19
21.08.2024

In The High Court At Calcutta
Civil Revisional Jurisdiction

C.O. 387 of 2024

Sujoy Ghosal

Vs.

Ila Dey & Anr.

Ms. Somoshree Saha ... For the petitioner.

Mr. Sounak Bhattacharya,
Mr. Anirban Saha Ray,
Mr. Sounak Mandal,
Mr. Abhirup Halder ... For the opposite parties.

Ms. Somoshree Saha, learned advocate for the petitioner submits that the opposite party no. 1 has already died but erroneously she has been impleaded, however the sister of the said deceased opposite party, the only heir and legal representatives of her is already on record. Ms. Saha prays leave to delete the name of the opposite party no. 1 from the cause title of the revisional application.

Leave as prayed for is granted.

The defendant in a suit for eviction is the petitioner in the instant application under Article 227 of the Constitution of India, which is directed against the Order No. 25 dated September 19, 2023 and Order No. 26 dated December 12, 2023 passed by the learned Judge, Xth Bench, City Civil Court at Calcutta, in the said suit being Title Suit No. 98 of 2019.

The petitioner has raised an objection as to the capacity of the power of attorney holder to depose in the suit on behalf of the plaintiffs.

The learned Trial Judge by the order impugned dated September 19, 2023 has overruled the said objection and by the order impugned dated December 12, 2023 has dismissed the application for adjournment prayed for by the petitioner.

The plaintiffs, at their own risk and peril, have taken such course, the legality and propriety of which, including the admissibility of the evidence of the power of attorney holder of the plaintiffs can be decided at the time of final disposal of the suit, the objection raised by the

petitioner, being pre-matured, the orders impugned do not call for any interference.

C.O. 387 of 2024 is therefore dismissed without any order as to costs.

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

(Biswajit Basu, J.)