

Ct. 08.01
No. 2024
652
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akb

C.O. 358 of 2019
Lakshmi Mitra & Anr.
-Versus-
Haradhan Kanrar

Mr. Animesh Das

...For the Opposite Party

Petitioners are not represented.

Being aggrieved by and dis-satisfied with the orders dated 14th November, 2018 and 10th January, 2019 passed by the learned Civil Judge (Junior Division) at Howrah in Title Suit No. 5 of 2016 present application under Article 227 of the Constitution of India has been preferred.

By the impugned orders the learned Court below was pleased to reject the application for adjournment as well plaintiff's another application for recalling his witness on the ground that that the case has already been posted for adducing evidence on behalf of defendant.

On perusal of the order impugned it appears that 10th January, 2019 was fixed for adducing evidence on behalf of the defendant and also for payment of cost of Rs. 500/- by the plaintiff to the defendant. However, on that date defendant filed an application for adjournment and on the other hand plaintiff also filed an application for recalling his witness and for adducing further evidence on his behalf.

However, the Court below held that he has already closed the evidence of the plaintiffs by order dated 14.11.2018 and as such Court below declined to give any further opportunity to the plaintiffs for adducing evidence.

When the plaintiff intends to adduce further

evidence to prove his case and when apparently there is nothing mala fide in making such prayer to cause delay in disposal of case, I am of the view that plaintiff should be rendered with one more opportunity to present his case to unfurl truth. Defendant in this regard will not be prejudiced because he will have the slot open before him to cross-examine the witness and rebut the authenticity of evidence either oral or documentary.

Having considered the facts and circumstance of the case, present application, being C.O. 358 of 2019 is hereby disposed of with a direction upon the Court below to give one more opportunity to the plaintiffs to conclude their evidence within a period of one month from the date of communication of this order. On such completion of evidence of the plaintiff the defendant will be at liberty to adduce evidence on their behalf.

In case of failure on the part of the plaintiff to bring witness to adduce further evidence on their part within the period as stipulated, the order impugned shall revive.

Department is directed to sent a copy of this order to the Court below for information.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, on priority basis on compliance of all usual formalities.

(Ajoy Kumar Mukherjee, J.)