

February 5, 2024
Sl. No.4 & 5
Court No.19
s.biswas

CO 412 of 2023

Smt. Parul Basu
vs.
Sri Laxmikanta Das and another

WITH

CO 413 of 2023

Smt. Parul Basu
vs.
Sri Laxmikanta Das

Mr. Agniv Sinha
Mr. Mrityunjoy Chatterjee
Ms. Debapriya Majumder
Mr. Akash Sarkar

... for the petitioner

Mr. Animesh Paul
Ms. Haardikaa Rajdev

... for the opposite parties

As the parties involved in the two revisional applications and the suit properties are the same, the two revisional applications are being taken up analogously with the consent of the parties. It is also found that both the applications have been filed by Smt. Parul Basu and another, for transfer of the suits filed by each of the parties against the other, to another court.

In Re: CO 412 of 2023

This is an application for transfer of Title Suit No.531 of 2018, which is pending before the learned Civil Judge (Junior Division), 2nd Court, Howrah, to any other court of competent jurisdiction at the City Civil Court at Calcutta.

Title Suit No.531 of 2018, is a suit for eviction of the petitioners and recovery of khas possession. It is

contended that the plaintiff/opposite party no.1 is a practicing advocate of the Howrah court and has substantial influence on the staff and the proceedings. The other learned advocates in support of the plaintiff, create a chaotic situation in the courtroom and such situation precludes a fair and composed hearing of the suit. There is an apprehension of injustice.

It is further contended that the defendant no.2 is also a learned advocate of the court and at the time of hearing, the parties start fighting amongst each other.

Thus, for the ends of justice and for the benefit of the parties, the suit should be transferred.

In Re: CO 413 of 2023

This is an application for transfer of the Title Suit No.1288 of 2017, which is pending before the learned Civil Judge (Junior Division), 2nd Court, Howrah, to any other court of competent jurisdiction at the City Civil Court at Calcutta.

This is a suit for declaration and injunction against the opposite party, filed by the petitioners. From the order sheet, it appears that the suits are at the stage of evidence.

The applications for transfer do not disclose any documents which would indicate that there was any scuffling or fight in the courtroom, which had

prevented the learned court from proceeding with the suits in a free and fair manner.

Although, it is contended that the learned court had often been influenced by the submissions of the opposite party, namely, Laxmikanta Das, and had refused adjournments to the petitioner, I do not find anything in support of such contention, from the records.

Such allegations are not substantiated either by the orders or from any other document. Moreover, it also appears that the petitioners had often prayed for adjournments in the suits.

Under such circumstances, this court does not deem it proper to transfer the suit to another court, on the basis of mere apprehension of the petitioners that they may not get justice. In the absence of any specific material that the learned court below is being disturbed by the opposite party or his associates, transfer should not be permitted.

Under such circumstances, the prayers in the applications are not allowed.

It is also brought to the notice of the court that another learned Civil Judge (Junior Division) had assumed office and the suits will be heard by the said judge.

It is made clear that if the parties cannot maintain decorum, apart from the days when the

parties are required to be present inside the court room, as per the direction of the learned court, neither the opposite party nor the petitioner No.2 shall be present inside the courtroom. This direction is passed to avoid further public display of acrimony and to allow the court to proceed in a dignified manner. The learned court shall monitor the behaviour of the parties.

It is also made clear that the staff, sherestadar, etc. shall have no control over the dates to be fixed. The learned judge shall fix the dates as per his/her discretion and docket.

The applications are dismissed. The witness action in both the suits shall be completed within a period of three months from date, without granting any adjournments to either of the parties and the suits shall be disposed of within next six months.

The only orders which can be passed in favour of the petitioners, are as follows:

- a) The order dated February 7, 2023 passed in Title Suit No.531 of 2018, by which the opportunity to cross-examine the PW1 had been closed, stands recalled. As tomorrow (i.e. February 6, 2024) is the date fixed in the suit, the cross-examination of PW1 shall be completed within two days, i.e., February 6 and 7, 2024.

b) The order dated February 20, 2023 in Title Suit No. 1288 of 2017 by which the evidence of the PW1 was expunged, stands recalled and the plaintiffs would not be required to show cause as to why the suit should not be dismissed for non-prosecution. The suit shall proceed in accordance with law from the stage of cross-examination of the PW1. Such cross-examination shall be completed by the opposite party on February 17, 2024, and February 18, 2024. The evidence of PW1 which is already on record, shall remain.

The revisional applications are thus disposed of.

There shall be no order as to costs.

All the parties are directed to act on the basis of the server copy of the order, as also upon the learned Advocate's communication.

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.)