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17.12.2024
Ct. No.22
KB.

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 589 of 2023

Rabin Pal
Vs.
Sandhya Ghosh & Anr.

Mr. Ziaul Haque
Mr. Kartik Das
... For the petitioner

1. Challenge in the order dated 10th November, 2022 passed in connection with Title Suit No.396 of 2016 wherein the learned Civil Judge (Senior Division), 1st Court, Howrah rejected an application under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure filed by the plaintiff/petitioner herein for adding the daughter of the sole defendant who passed away on 19th December, 2020.

2. Learned counsel appearing on behalf of the petitioner has drawn my attention to the application under Order I Rule 10(2) of the Code of Civil Procedure wherein it was contended that the name of the daughter of the sole defendant – late Dibakar Ghosh – was not within the knowledge of the plaintiff and such fact came to the knowledge of the plaintiff for the first time when one application under Section 151 of the Code of Civil Procedure was filed by the added defendants.

3. From the record it appears that the added defendants i.e. wife and son of the sole defendant since deceased filed an application under Section 151 of the Code of Civil Procedure disclosing the name of the legal heirs i.e. two added defendants and also the daughter of the sole defendant since deceased.

4. Learned counsel appearing on behalf of the petitioner/plaintiff has submitted that the plaintiff/petitioner came to know about the name of the daughter for the first time from the application under Section 151 of the Code of Civil Procedure taken out by the defendants namely, wife and son of the sole defendant since deceased.

5. From the impugned order, I find that the learned Trial Judge refused to entertain the application on the ground that death information was given on 09.02.2021 and subsequently one substitution application was filed by the plaintiff on 22nd March, 2021 whereas the sole defendant died in the month of December, 2020.

6. Learned Judge failed to appreciate the fact that the plaintiff came to know about the name of the daughter of the sole defendant for the first time from an application under Section 151 of the Code of Civil Procedure filed at the instance of the defendants already substituted.

7. In the aforesaid view of the matter, the order impugned dated 10th November, 2022 passed in Title Suit No.396 of 2016 stands set aside.

8. As a sequel, the application under Order 10(2) of the Code of Civil Procedure dated 1st August, 2022 stands allowed.
9. Learned Trial Judge is directed to take necessary steps by incorporating the name of the daughter of the sole defendant in the cause title of the suit.
10. With the aforesaid observation, the revisional application stands disposed of.
11. Interim order thereto, if any, stands vacated.
12. Connected application, if any, also stands disposed of.
13. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.
14. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Bibhas Ranjan De, J.)