

Item No.6
03.04.2024
Court. No. 19
GB

C.O. 729 of 2024

Smt. Saroj Devi @ Saroj Devi Singh & Ors.
Vs.

Ramasankar Gupta @ Shaw & Ors.

Mr. Rwitendra Banerjee,
Mr. Goutam Das,
Mr. Sandip Kundu

...for the Petitioners.

Ms. Shebatee Datta,
Ms. Poulami Roy

...for the Opposite Parties.

The issue before this revisional application is whether the cross-examination of O.P.W.1 in Title Execution Case No.15 of 1997 should have been closed by the learned Civil Judge (Junior Division), 4th Court at Howrah.

It is submitted that an order passed in Misc. Case No.23 of 2007 was under challenge before this Court. The petitioners prayed for an adjournment in order to proceed with the revisional application before the High Court. Earlier, chances had been given to the petitioners to bring a stay order from the High Court. The petitioners failed to obtain any such order. On February 2, 2024, the petitioners prayed for an adjournment. The date had been fixed for cross-examination of O.P.W.1. The learned court rejected such prayer and fixed March 4, 2024 for arguments, by closing the cross-examination. Aggrieved, the petitioners moved before this Court.

Ms. Datta, learned advocate represents the opposite parties in the revisional application. It is submitted that

unnecessarily the execution case was kept pending due to failure on the part of the petitioners to complete the cross-examination and as such, the court had no other alternative but to proceed with the arguments when the petitioners failed to obtain any order from the High Court.

Considering the submissions, this Court finds that for the ends of justice, the learned court could have given one last opportunity to the petitioners to cross-examine the O.P.W.1, instead of closing the cross-examination of the O.P.W.1. O.P.W.1 has filed his affidavit-in-chief as also a supplementary affidavit-in-chief. Cross-examination of the O.P.W.1 under such circumstances, would be crucial.

The revisional application is allowed. The order impugned dated February 2, 2024 is set aside. Cost of Rs.5,000/- shall be paid by the petitioners to the O.P.W.1 within two weeks from date. Cross-examination of the O.P.W.1 shall be completed within three days. The learned court shall fix the dates and there shall be no further adjournments to either of the parties.

Accordingly, the revisional application is disposed of.

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

(Shampa Sarkar, J.)