

Item No. 31

Ct 22

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07.08. 2024

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

C.O. 880 of 2022

Bholanath Dinda
Vs
Smt. Chaiti De @ Chait De (Pattanayak) & Anr.

Mr. Agniswar Bhuinya.

... for the petitioner.

Mr. Gopal Ch. Ghosh,

Mr. Nilratan Banerjee. ... for the opposite parties.

1. Challenge in this revisional application is the order dated 7th March, 2022 passed in connection with Miscellaneous Preemption Case No. 08 of 2017 by the learned Court of Civil Judge (Junior Division), 2nd Court, Tamluk, whereby learned Judge refused the prayer for making enquiry in respect of consideration money of the sale deed in connection with subject property, for which an application under Section 8(1) of the West Bengal Land Reforms Act was filed. In the impugned order, learned Judge provided an opportunity to the opposite parties to adduce evidence with regard to the consideration money of the sale deed.
2. Learned counsel on behalf of the petitioner has

submitted that petitioner should have been given opportunity to show the extra amount paid as sale consideration money at the time of execution of the deed and for that reason learned Trial Judge is to make enquiry within the provision of Section 9 of the WBLR Act.

3. Mr. Gopal Ch. Ghosh, learned counsel on behalf of the opposite party has submitted that an application was filed for making enquiry under Section 8(1) of the WBLR Act in stead of Section 9 of the WBLR Act.
4. That apart, learned counsel on behalf of the opposite party has submitted that no such issue was ever raised by the petitioner in his written objection. He has specially drawn my attention to the paragraph 14 of the written objection against the Misc. Petition.
5. After carefully gone through the order, I do not find any reason to interfere with the order of refusal of the prayer for making enquiry as there was nothing before the Court to assess further amount in absence of any documents or evidence. But learned Judge provided an opportunity to the opposite party/petitioner to adduce evidence to show the payment of further amount at the time of execution of the sale deed.
6. From the order dated 18.07.2022 annexed with the

supplementary affidavit filed on behalf of the petitioner, it is found that the evidence of OPs was closed and date was fixed for argument. It is admitted by the learned counsel on behalf of the parties to this revisional application that OPs did not adduce any evidence so far.

7. Given facts and circumstances, I find no infirmity in the order impugned.
8. Considering the opportunity of adducing evidence, already given to the petitioner by the impugned order, I find that the prayer should be considered by the learned Trial Judge.
9. In the facts and circumstances, learned Trial Judge is directed to provide opportunity to the opposite party/petitioner herein to adduce evidence and to dispose of the preemption application within three months from date of communication of this order without giving any unnecessary adjournment to any of the parties to the petition.
10. With this observation and direction the revisional application stands disposed of.
11. Interim order, if any, stands vacated.
12. Connected applications, if any, also stand disposed of.
13. Let the copy of this order be communicated to the learned Trial Court.
14. Urgent photostat certified copy of the order, if

applied for, be given to the parties on usual undertakings.

15. All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

(Bibhas Ranjan De, J.)