

S/L 3
24.9.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1349 of 2024

Santosh Kumar Gupta
Vs.
Kishore Kumar Gupta & Ors.

Mr. Supratim Dhar
Mr. Dhananjay Nayak
Mr. Tirupati Mukherjee

...for the Petitioner.

Mr. Arup Krishna Das
Ms. Durba Bandyopadhyay

...for the Opposite Party No.3.

This matter though has been brought to the list for extension of interim order, but by the consent of the parties, the revisional application is taken up for final disposal.

The defendant in a suit for eviction is the petitioner of the instant application under Article 227 of the Constitution of India. The said suit is pending before the Additional Court of learned Civil Judge (Junior Division) at Asansol, District: Paschim Bardhaman.

The learned Trial Judge by the impugned Order No.298 dated February 8, 2024 has allowed an application under Order XXII Rule 9 of the Code of Civil Procedure and has also condoned the delay in filing the said application, subject to payment of costs of Rs. 5000/-.

The plaintiff no.4 had died during the pendency of the suit, but the heirs and legal representatives of the said deceased plaintiff were not substituted in the suit within the prescribed period of limitation.

The learned Trial Judge, being satisfied with the explanation offered by the plaintiffs, has exercised his discretion to condone the delay and to allow the said application for substitution.

This Court, in exercise of its power under Article 227 of the Constitution of India, is not inclined to interfere with the exercise of such discretion, particularly when it does not appear to have been exercised arbitrarily and/or capriciously.

Mr. Dhar, learned advocate for the petitioner submits that the heirs and legal representatives of the deceased defendant no.4 have also not been substituted in the suit.

Mr. Das, learned advocate for the opposite party no.3 submits that the learned Trial Judge by the order dated July 5, 2022 has allowed the application filed by the plaintiffs under Order XXII Rule 4(4) of the Code, thereby has dispensed with the necessity of substituting the heirs of the said deceased defendant.

The order impugned does not call for any interference.

CO 1349 of 2024 is dismissed without any order as to costs.

The learned Trial Judge is requested to expedite the disposal of the suit, in accordance with law.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)