

13.05.2024
Ct. No. 19
Sl. No.24
Cp

C.O. No. 1649 of 2024

Indian Oil Corporation Limited
Vs.
Ambe Plywoods Private Limited

Ms. Urmila Chakraborty
Mr. Amit Meharia
Ms. Paramita Banerjee
Ms. Amrita Das

... for the petitioner.

Mr. Suddhasatva Banerjee
Mr. Soumabho Ghosh
Mr. P. Kar
Mr. Sagnik Majumdar
Mrs. A. Banerjee
Ms. Sreya Ghosh Dastidar
Ms. Sudha Singh

.....for the opposite party.

1. The revisional application arises out of orders dated March 11, 2024 and April 3, 2024, passed by the learned Civil Judge (Senior Division), 2nd Court, Alipore in Title Suit No.39 of 2000. By the first order, the learned court rejected a prayer for adjournment made by the petitioner on the ground that the e-mail which was sent indicating that the person who filed the affidavit-in-chief would not be able to depose as he was on transfer, did not clarify the identity of the person and the reason for such prayer for adjournment. The submissions of the learned advocate was not evident from the e-mail.

2. By an application under Section 151 of the Code of Civil Procedure, the petitioner prayed for recalling of the order dated March 11, 2024 on the ground that as Mr. Kallol Kr. Khan was transferred and would not be in a position to file the affidavit-in-chief and tender the documents to be admitted in evidence, another officer of the petitioner would file a fresh examination in chief and tender evidence. The application was rejected.
3. The learned court was of the view that the order could not be recalled. That the petitioner was unsure of who would adduce evidence by filing an affidavit-in-chief. In view of the uncertainty which was displayed by the petitioner, the learned court rejected the application under Section 151 of the Code of Civil Procedure.
4. Mr. Ajeet Kumar Anurag, Sr. Manager (Retail Sales), Kolkata Divisional Office of Indian Oil Corporation Limited had prepared the affidavit-in-chief and it is prayed that the court should recall the earlier order of closing the evidence of the petitioner and allow Mr. Ajeet Kumar Anurag to file the examination-in-chief and adduce evidence on behalf of the petitioner.
5. Although this court does not find any serious reason to hold that the learned Judge had acted illegally or with material irregularity, but ends of justice demands that a suit cannot go uncontested, thereby, depriving the sole defendant from adducing evidence.

6. Mr. Ajeet Kumar Anurag shall file his examination-in-chief on the next date fixed and the learned court shall allow him to adduce evidence. He shall also make himself available for cross-examination by the plaintiffs and the suit shall be disposed of within six months.
7. In view of the delay caused in disposal of the suit, a further cost of Rs.5000/- in addition to Rs.5000/- which was already imposed by the learned court, shall be paid to the plaintiff within 10 days from date.
8. Accordingly, the revisional application is disposed of.
9. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)