

February 5, 2024
Sl. No.6
Court No.19
s.biswas

CO 1774 of 2023

Hasibur Rahaman and others

vs.

Azfar Hossain and others

Mr. Saiful Alam

... for the petitioners

Mr. Anirban Sarkar

... for the opposite parties

The order impugned is set aside on the following grounds:

- a) The chief of the DW ought not to have been closed as adjournments were prayed on the ground of ill health;
- b) Although there was a delay of two years in completing the witness action of the DW, one last opportunity ought to have been given to the defendants to adduce evidence, upon considering the ground of illness.

However, this court is of the view that the learned Judge (Junior Division), Katwa, finding it impossible to complete hearing of the suit, being Title Suit No.154 of 2018, had passed the order impugned.

For the ends of justice, the order impugned is set aside. One last opportunity is given to the defendant to complete the witness action within a reasonable time. The examination-in-chief shall be completed within two days from the next date, that will be fixed

by the learned court. The cross-examination will be completed within two days thereafter on the days to be fixed by the learned court.

The entire witness action shall be completed within a period of two months from date and the suit shall be disposed of within next six months. For the delay caused by the defendants, cost of Rs.5000/- shall be paid to the plaintiffs. The court, upon being satisfied that such cost has been paid, shall proceed as directed above. In case of default, the suit shall proceed without evidence of DW.

The parties are at liberty to approach the learned court by filing a put up petition for fixing up the dates, on the basis of the order of this court.

The revisional application is accordingly disposed of.

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

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)