

S/L 2
02.7.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1931 of 2023
With
CAN 2 of 2024

Luthfun Nesha
Vs.
Alamgir Hossain & Ors.

Mr. Sukanta Chakraborty
Mr. Anindya Halder
Ms. Jenifar Alam Megha

...for the Petitioner.

Mr. Partha Pratim Roy
Mr. Nikhil Kr. Gupta
Mr. Saptarshee Pakrashi

...for the Opposite Parties.

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

The defendant no.1 in a suit for declaration is the petitioner of the present application which is directed against Order No.11 dated May 15, 2023 passed by the learned Civil Judge (Junior Division), Chanchal, District: Malda in the said suit being O.C. Suit No.39 of 2022.

The learned Trial Judge by the order impugned has dismissed an application filed by the petitioner under Section 10 of the Code of Civil Procedure.

The petitioner is one of the defendants in the Partition Suit No.104 of 2021 pending before the learned Civil Judge (Senior Division), Chanchal, District: Malda.

The petitioner in her written statement filed in the said Partition Suit has alleged that by virtue of a deed of gift, she has acquired absolute right, title, interest, in respect of a portion of the suit property.

The defendant no.3 of the said partition suit, challenging the legality and propriety of the said deed of gift, has filed the O.C. Suit No.39 of 2022.

The petitioner in the said suit had filed the said application praying stay of further proceedings of the said suit till the disposal of the said partition suit.

The veracity of the said deed of gift needs to be determined to declare the shares of the parties over the joint properties in the partition suit, therefore, both the suits are required to be heard analogously.

Accordingly, this Court, by exercising power under Section 24 of the Code of Civil Procedure, directs withdrawal of O.C. Suit No.39 of 2022 from the docket of the learned Civil Judge (Junior Division), Chanchal, District: Malda and transfer of it to the Court of learned Civil Judge (Senior Division), Chanchal, District: Malda for analogous trial and disposal of the said suit with the Partition Suit No.104 of 2021.

The learned Civil Judge (Junior Division), Chanchal, District: Malda is directed to take steps for transmission of the records of the said O.C. Suit No.39 of 2022 to the Court of learned Civil Judge (Senior Division), Chanchal, District: Malda; On receipt of the records, the said Court shall proceed to dispose of the said suit from the stage where it has already reached.

The department is directed to communicate a copy of this order to the Court of learned District Judge, Malda to monitor the transfer of records of the O.C. Suit No.39 of 2022.

CO 1931 of 2023 is disposed of with the above terms without any order as to costs.

CAN 2 of 2024

In view of the disposal of the revisional application, the application for extension of interim order has become infructuous, CAN 2 of 2024 is dismissed as such without any order as to costs.

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.)