

S/L 10
05.7.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 2313 of 2024

Manti Debi Shaw @ Manti Shaw Gond & Ors.

Vs.

Smt. Bhanu Das & Ors.

Mr. Tarak Nath Halder

...for the Petitioners.

Mr. Biswarup Biswas

Mrs. Atreyee De (Ganguly)

...for the Opposite Parties.

The instant application under Article 227 of the Constitution of India is directed against the order dated January 30, 2024 passed by the 2nd Court of learned Civil Judge (Junior Division), Sealdah, District 24 Parganas (South) in Misc. Case No.40 of 2009 arising out of Title Execution Case No.36 of 2005.

The plaintiff/opposite party no.1 has put the ex-parte decree of eviction dated September 22, 2005 passed in Title Suit No.584 of 1999 into execution giving rise to the connected Title Execution Case.

In the said execution case, the petitioners have filed an application for declaration that they are the lawful tenants in respect of the suit property, the said application has been registered in the said Execution case, being Misc. Case No.40 of 2009.

At the argument stage of the said misc. case, the petitioners had filed an application for recalling of the P.W.1 to prove the alleged Aadhar Card, the alleged PAN card of the petitioner no.1 and the death certificate of her alleged husband, Panna Lal Shaw.

The learned Trial Judge by the order impugned has dismissed the said application holding that the surnames of the petitioner no.1. and the holder of the said Aadhar card and the PAN card are not matching.

Mr. Halder, learned advocate for the petitioners submits that the husband of the petitioner used to use the surname 'Shaw Gond' and so did the petitioner no. 1. The Aadhar Card and the PAN Card, being Government documents, the executing Court has committed an error in going into the question as to whether those documents are of the petitioner no.1 or not to refuse the prayer of the petitioners to recall P.W.1.

Mr. Biswas, learned advocate for the decree-holders/opposite parties on the other hand submits that the petitioners have never made out a case that Manti Debi Shaw and Manti Debi Shaw Gond is one and the same person, therefore the executing Court has rightly refused to recall the P.W.1. for proving the documents sought to be proved through the said witness, particularly when the misc. case has reached to the stage of argument.

Heard learned advocate for the parties, perused the materials-on-record.

The petitioners in the Misc. case are trying to establish that they are the heirs of the deceased tenant of the suit property, Panna Lal Shaw, which the opposite parties are denying. The parties have adduced evidence to prove their respective cases and the Misc. case has reached to the stage of disposal. At this stage, the petitioners cannot be allowed to recall the P.W.1 to prove some

irrelevant documents, therefore the learned Trial Judge has rightly refused the prayer of the petitioners.

This Court therefore does not find any reason to interfere with the order impugned.

However, the death of Panna Lal Shaw, the admitted tenant of the suit property, is not in dispute, as such, his death certificate dated May 05, 2004 may be admitted in evidence on admission and accordingly, the Executing Court shall mark the said document as an Exhibit on admission in the said Misc. case.

The executing court, in view of the earlier direction of this court is requested to dispose of the said misc. case expeditiously and depending upon the outcome of the said misc. case, shall also proceed to dispose of the said execution case expeditiously.

CO 2313 of 2024 is disposed of with the above terms 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.)