

S/L 11
09.7.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 2392 of 2024

Subrata Halder
Vs.
Ajoy Halder & Ors.

Mr. Sounak Bhattacharyya
Mr. Sounak Mondal
Mr. Abhirup Halder

...for the Petitioner.

Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. K. Rahim Ahmed
Mr. Rudranil Das
Mr. Tapas Chatterjee
Mr. Soumava Santra

...for the Opposite Parties.

The plaintiff in a suit for partition is the petitioner in the instant application under Article 227 of the Constitution of India which is directed against the orders dated February 23, 2024 and June 05, 2024 passed by the 6th Court of learned Civil Judge (Senior Division) at Alipore, District: 24 Parganas (South) in the said suit being Title Suit No.43 of 2014.

The learned Trial Judge, by the order dated February 23, 2024, has dismissed an application filed by the plaintiff for recording evidence of one Sri. Sourav Das on commission, and has closed the evidence from the plaintiff's side, and by the order dated June 05, 2024 has refused to recall the said order on the ground that the order dated February 23, 2024 has not been assailed to any higher forum, and has rejected the prayer to cite one Smt. Krishna Shee Chakraborty, the daughter of the defendant no.4 as his next witness.

The rejection of the prayer of the plaintiff for recording of one of his witnesses on commission does not automatically

follow closure of evidence from his side. Therefore, the order dated February 23, 2024, so far as it relates to closure of evidence from the plaintiff's side, is set aside; in consequence, the prayer of the plaintiff to cite another witness is allowed.

This Court is informed that tomorrow is the next date fixed in the suit.

The plaintiff shall produce the said Smt. Krishna Shee Chakraborty positively as his next and last witness and shall complete the examination-in-chief of the said witness tomorrow itself.

It is expected that the defendants shall conclude the cross-examination of the said witness immediately upon completion of her examination-in-chief.

To implement the direction hereby made, the learned Trial Judge shall not entertain the prayer of the parties for any adjournment.

In the event, the plaintiff fails to produce the said witness or to complete the examination-in-chief of the said witness tomorrow itself, the evidence from the side of the plaintiff shall stand closed.

The orders impugned dated February 23, 2024 and June 05, 2024 are modified to the extent as indicated above.

CO 2392 of 2024 is thus disposed of 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.)