

S/L 55
03.07.2024
Court. No. 22
*Suvayan/
Sourav*

CO 2242 of 2022

**Sri Himangshu Sekhar Hazra
Vs.
Sri Dharmadas Hazra**

Mr. Subir Pal

...for the petitioner.

*Mr. Bhaskar Ghose
Mr. Uttiya Ray
Mr. Arnab Mandal*

...for the opposite party.

1. This revisional application has been filed assailing in the Order No. 84 dated April 29, 2022 passed by the learned Single Judge (Junior Division) 1st Court, Purba Bardhaman.
2. Learned Judge refused one application under Section 151 of the Code of Civil Procedure claiming that a particular unregistered agreement could not be marked as exhibit and also on the ground of forged signature of the petitioner on it.
3. Learned Counsel appearing on behalf of the petitioner has advanced his submission in the line of contents of the application under Section 151 of the Code of Civil Procedure. It is contended that the unregistered agreement for the year 1967 cannot be exhibited and that to with a forged signature of the petitioner.
4. Learned Counsel appearing on behalf of the opposite party has submitted that learned Judge only exhibited the document for collateral

purposes relying on a case of *Barium Chemicals Limited vs. Vishwa Bharati Mining Corporation and Another* reported in (2009) 16 SCC 262 wherein it was held that unregistered agreement can be admitted in the evidence for collateral purposes under provision of Section 49 of the Registration Act.

5. Having heard the learned Counsel appearing for the parties as well as having gone through the order impugned, I find that the petitioner/plaintiff filed an application under Section 151 of the Code of Civil Procedure for not marking the unregistered agreement for the year 1967 filed by the defendant by a 'firisty' in Court. But the learned trial judge rejected the application relying on the case of *Barium Chemicals Limited (Supra)*.
6. Learned Counsel appearing on behalf of the petitioner/plaintiff has submitted that the unregistered document that too with a forged signature of the plaintiff cannot be relied upon by the Court.
7. I am agreeable with the learned Counsel appearing for the petitioner that the petitioner can raise the time of admissibility of the documents at the time of final hearing of the suit not at the time of marking exhibit. That apart, issue of alleged forged signature cannot stand in the way of marking exhibit of a document alleged to have been forged. That issue, in my humble opinion,

can be decided by evidence and if necessary by examining the document by an expert or by the Court as the case may be.

8. Therefore, I do not find any irregularity or illegality in the order impugned.
9. Accordingly, the revisional application being CO 2242 of 2022 stands dismissed.
10. Interim order, if therebe any, stands hereby vacated.
11. Interim application(s), if therebe any, stands disposed of.
12. Learned Judge is requested to proceed with the suit as expeditiously as possible as per law as both the parties to the suit are senior citizens.
13. Parties to act on the server copies of this order.
14. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Bibhas Ranjan De, J.)