

02.08.2024

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CRR 2974 of 2024

In Re: Surojit Ghosh & Anr.

... Petitioners.

Mr. Ashirbad Sarkar

.... For the Petitioners

The petitioners are aggrieved by the order passed by the learned Chief Judicial Magistrate, Barasat, North 24 Parganas on 21st May, 2024 in C.535/22 turning down the prayer of the petitioners for adducing evidence and imposing cost upon them to the tune of Rs. 5,000/-

Learned counsel for the petitioners submits that on 22nd March, 2024 the petitioner no. 1 submitted an application before the learned trial Court stating that the petitioner no. 1 was suffering from chicken pox since 12th March, 2024 and was not able to appear before the Court. Learned trial Court closed the evidence of the petitioners with an observation that the petitioners were neither present nor represented by their learned advocate. The matter was fixed for argument. The petitioner no. 1 seeks to examine himself as OPW 1 in the case before the learned trial Court in order to rebut the contention of the opposite party/wife before the learned trial Court.

Learned counsel for the opposite party submits that the petitioners have left no stone unturned to protract the

proceedings before the learned trial Court. The learned trial Court has rightly closed the evidence of the petitioners and imposed cost upon them.

It appears that an application was submitted on behalf of the petitioner no. 1 before the learned trial Court on 22nd March, 2024 stating that the petitioner no. 1 was suffering from chicken pox since 12th March, 2024 and was not able to appear before the learned trial Court on that date. Strangely, learned trial Court has recorded in the order dated 23rd April, 2024 that the petitioners were neither present nor represented. Of course, the conduct of the petitioners as appears from the copy of the order sheets of the learned trial Court is not satisfactory for which cost was imposed upon the petitioners by the learned trial Court.

Be that as it may, since the petitioner no. 1 seeks to adduce evidence before the learned trial Court in support of his defence, the petitioner no. 1 be permitted to do so in the interest of justice.

The order impugned dated 21st May, 2024 passed by the learned Chief Judicial Magistrate, North 24 Parganas at Barasat in C-535/2022 be set aside in so far as the prayer of the petitioner no. 1 for allowing him to adduce evidence was rejected. The remaining portion of the order is affirmed.

Learned trial Court shall fix a date for evidence of the petitioner no. 1 and shall not grant further adjournment to the petitioner no. 1 on any ground whatsoever.

In view of the direction of this Court vide order passed on 27th February, 2024 in CRR 759 of 2024, learned Magistrate shall conclude the proceedings within 30th September, 2024.

CRR 2974 of 2024 is disposed of.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)