

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

C.O. 2629 of 2023

(Assigned)

Manas Kumar Das

Vs.

Somenath Kusari & Ors.

For the petitioner

:Mr. Kumar Jyoti Tewari, Adv.

Mr. Prantick Ghosh, Adv.

For the Opposite Party no. 1

:Mr. Sounak Bhattacharya, Adv.

Mr. Raghunath Das, Adv.

Ms. Monalisa Das, Adv.

Heard On

:25.06.2024 & 16.07.2024

Judgment On

:20.08.2024

Bibhas Ranjan De, J. :**PREFACE:-**

1. Plaintiffs/ opposite party filed the suit for declaration with a prayer for declaring the Deed of Gift dated 04.01.2018 executed in favour of defendant no. 1/petitioner herein, vitiated by fraud under inference, misrepresentation and under coercion.
2. Plaintiff filed an application under Order 11 Rule 12 & 14 of the Code of Civil Procedure (for short CPC) requesting the Court to order the defendant no.1 to make discovery on oath of documents relating to medical documents in respect of executor of the Gift Deed , Smt. Bhakti Kusari (since deceased).
3. The Trial Court allowed the application directing defendant no. 1 to produce on oath the medical documents of Smt. Bhakti Kusari (since deceased) for discovery, inspection.

ARGUMENT:

4. Ld. Counsel, Mr. Kumar Jyoti Tewari appearing on behalf of the defendant no. 1/petitioner herein contended that the Executor of Deed of Gift executed the same on 04.01.2018 whereas Executor of the Deed of Gift was diagnosed with Cancer on January 11, 2019 and therefore grabbing of

property of Executor by taking advantage of her illness does not arise.

5. It is further submitted that there is no specification of documents in the plaint under Order 11 Rule 12 & 14 of CPC in terms of Appendix 4 & 6 of Schedule (C) of the CPC.
6. In opposition to the aforesaid argument, Mr. Sounak Bhattacharya, Ld. Counsel, appearing on behalf of the plaintiff/opposite parties herein replied by referring to the application under Order 11 Rule 14 of the CPC that documents sought for discovery have been specified in paragraph 10.

ISSUE:-

7. Whether application under Order 11, Rule 12 & 14 of the CPC can be rejected simply because details of documents were not specified.

FINDINGS OF THIS COURT:-

8. This is a revision application by the defendant no. 1 against the Order dated 06.07.2023 passed by Ld. Civil Judge (Senior Division), 6th Court at Alipore, South 24 Parganas in Title Suit No. 544 of 2019, Wherein defendant no. 1 was to make discovery on oath of documents which were or had been in

their possession or power relating to the issues raised by the pleadings in the suit.

- 9.** It is true that if details of documents in prescribed form are furnished, controversy likely to arise in future can be avoided, but that does not mean to preclude a party to the suit making a general request for another party to make discovery of all relevant documents in his possession or power.
- 10.** Therefore, interpreting all relevant provisions in this regard viz Section 30, Order 11 Rule 12 & 14 of CPC, it cannot be said that an application for discovery of documents can be rejected simply because the details of documents were not entered therein; though this Court has power to direct the party seeking discovery to furnish details of documents.
- 11.** It is well settled that all relevant provisions of CPC relating to discovery of documents establish a frame work for discovery of documents relevant to the issue in a Civil Suit. The key requirements include the necessity of relevance, specification of documents and the Court's discretion in granting such requests. Parties should ensure compliance with these requirements to facilitate a fair and efficient adjudication process.

- 12.** Conjoint reading of pleadings of this suit and the application under Order 11 Rule 12 & 14 of the CPC clearly boils down to sufficient specification of documents sought for discovery. Accordingly, by the impugned order, the Court gave a direction to produce on oath the medical documents of Smt. Bhakti Kushari (Executor of Deed of Gift).
- 13.** Regard being had to the above, I find no scope to interfere with the order impugned in this revision application.
- 14.** As a sequel, this revision application being No. C.O. 2629 of 2023 stands dismissed with no order as to costs.
- 15.** Interim order, if there be any, stands vacated.
- 16.** Connected applications, if there be, also stands disposed of accordingly.
- 17.** All parties to this revisional application shall act on the server copy of this order downloaded from the official website of this Court.
- 18.** Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

[BIBHAS RANJAN DE, J.]