

S/L 4
19.9.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 2773 of 2024

Shri Ajit Banerjee
Vs.
Shrimati Gouri Roy & Ors.

Mr. Debasish Roy, Sr. Adv.

...for the Petitioner.

*Mr. Sounak Bhattacharya
Mr. Sumitava Chakraborty
Ms. Bratati Pramanick
Mr. Sounak Mondal*

...for the Opposite Party No.1.

The petitioner is the added defendant no. 2(d) of *Title Suit No. 1036 of 2009*, a suit for declaration and eviction pending before the 4th Court of learned Civil Judge (Junior Division) at Alipore, District: 24 Parganas (South).

The plaint was amended; consequently, the defendants were afforded the opportunity to file additional written statement within the time fixed by the learned Trial Judge. The petitioner had failed to file such written statement within the stipulated time; he however filed the same with an application explaining the reason(s) for delay.

The learned Trial Judge by the order impugned being Order No. 147 dated July 12, 2024 has refused to accept the said additional written statement as he was not satisfied with the said explanation.

Mr. Roy, learned senior advocate for the petitioner submits that the petitioner is aged about 70 years and is suffering from different kinds of age-related ailments, as a result could not file the additional written statement within the stipulated time.

Mr. Sounak Bhattacharya, learned advocate for the plaintiff, the opposite party herein submits that the suit is pending since 2009; the plaintiff is also aged about 80 years and is anxious about the disposal of the suit.

Having heard the learned counsel for the parties and on perusal of the records, this Court is of the opinion that the explanation offered by the petitioner for delay in filing the

additional written statement may be a bit insufficient, but cannot be disbelieved altogether, particularly in view of his age; therefore, the refusal to accept his additional written statement is not justified.

The order impugned for the aforesaid reason is set aside; the additional written statement is accepted.

The disposal of the suit is however required to be expedited. To facilitate it, the evidence of the plaintiff needs to be recorded immediately as she is also sufficiently aged.

This Court is informed that November 13, 2024 is the next date fixed in the suit for recording evidence of the plaintiff. The plaintiff on the said date shall complete her evidence-in-chief; the defendant no.2(d), being the only contesting party, must conclude the cross-examination of the said witness on the said date itself.

Mr. Bhattacharya submits that the Copy of the evidence-in-chief of the plaintiff has already been supplied to Mr. Roy; therefore, further service of the said evidence-in-chief upon the counterpart of Mr. Roy in the Court below is not necessary.

The learned Trial Judge, or in his absence, Judge-in-Charge of the Court below shall take appropriate steps for implementation of the aforementioned direction(s).

CO 2773 of 2024 is disposed of with the above terms without any order as to costs.

The learned *Registrar (Judicial)* shall communicate this order to the Court below.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Biswajit Basu, J.)