

ML 69
28.03.2024
Court. No. 19
GB

C.O. 2974 of 2023

Smt. Swapna Tripathy & Ors.
Vs.
Sri Dinataran Tripathy & Ors.

Mr. Siva Prasad Ghose

...for the Petitioners.

*Mr. S.K. Das,
Mr. S.K. Hota,
Ms. Krishna Yadav*

...for the Opposite Parties.

The revisional application is directed against an order dated July 19, 2023, passed by the learned Additional District Judge, 2nd Court at Contai in Miscellaneous Appeal No.05 of 2022.

By the order impugned, the learned court allowed an application under Section 151 of the Code of Civil Procedure filed by the opposite party no.1 with a prayer that the certified copies of the medical prescriptions and the certificates which were filed in Misc. Appeal No.06 of 2022 and marked as Exhibit-1 (series) and Exhibit-2 respectively, should be accepted as evidence in Misc. Appeal No.05 of 2022.

The appellant/opposite party no.1 had submitted before the court that Misc. Appeal No.06 of 2022 and Misc. Appeal No.05 of 2022 were being heard analogously. The opposite party no.1 had adduced evidence as P.W.1 and P.W.2 was the doctor. As the medical prescriptions and the certificates were already marked as exhibits in the appeal which was being heard analogously with the present appeal, the learned court allowed the application for marking the

certified copies of those documents as exhibits in Misc. Appeal No.05 of 2022.

The contention of the petitioners that the certified copies of those documents should not be accepted as evidence, was turned down by the court on the ground that the original medical documents could only be filed once. There could not be two sets of originals. Thus, the originals having been filed in Misc. Appeal No.06 of 2022 could not be again produced in Misc. Appeal No.5 of 2022. Certified copies of the same would be sufficient.

The learned court relied on Section 79 of the Indian Evidence Act and the presumption of genuineness of a certified copy of the document. The court also observed that the contention of the opposite party that the P.W.2 was not cross-examined on those documents, would not be a deterrent towards allowing the certified copies to be taken in evidence and the court observed that the petitioners could adopt a proper procedure for such purpose.

I do not find any reason to interfere with the order impugned. The order impugned is correct and well-reasoned. This Court has not gone into the merits of the pending appeals.

Accordingly, the revisional application is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)