

4th April, 2024
(D/L No.12)
(SKB)

C.O.3556 of 2018

Smt. Keya Roy
Versus
Asim Roy Chowdhary

Mr. Siva Prasad Ghosh
... for the petitioner.

1. The affidavit-of-service filed today be taken on record.
Despite service, none appears on behalf of the opposite party herein.
2. Heard.
3. In this revisional application, the order dated 01.08.2018 as passed in O.S. No.70 of 2015 by the learned Additional District & Sessions Judge, 2nd Court, Barrackpore, North 24 Parganas, has been assailed. By the impugned order, trial court declined to take off the said suit from the *ex parte* board despite the petition filed by the present petitioner, who is the opposite party in the said probate suit.
4. It is submitted at the Bar that prior to the passing of the impugned order, the instant writ petitioner being the opposite party in the said probate suit has filed her written objection and that has been taken on record by the trial court. It is further submitted on behalf of the present revisionist/opposite party that since the then conducting advocate of the

revisionist/opposite party did not take any steps in the said probate suit, trial court has fixed the said suit in *ex parte* board.

5. In considered view of this Court, the revisionist who is the opposite party in the said probate suit is successful in making out a case for obtaining a favourable order. In further considered view of this Court, the trial court ought to have visualized the predicament of the present revisionist, especially, when she has filed her written objection in the application for probate as filed by the opposite party herein.
6. Such being the position, the impugned order dated 01.8.2018 and the subsequent order dated 24.9.2018 as passed in O.S. No.70 of 2015 by the Additional District and Sessions Judge, 2nd Court, Barrckpore, North 24-Parganas, are hereby set aside.
7. Trial court is hereby directed to allow the present revisionist who is the opposite party before him to contest O.S. No.70 of 2015. Trial court is further directed to dispose of the said probate suit within a period of six months from the date of communication of this order.
8. With the aforementioned observations, the instant revisional application is allowed and disposed of.

9. Department is hereby directed to communicate this order to the trial court within a week from the date of communication of this order.
10. Urgent photostat certified copy of this order, if applied for, be given to the parties after compliance of all formalities.

(Partha Sarathi Sen, J.)