

28.03.2024.
Item nos. 18 & 19.
Court No.19
ap

C.O. No. 2785 of 2023
Hooghly Club & Anr.
Versus
Santimoy Mallick & Ors.

Mr. Partha Pratim Roy,
Ms. Poulami Chakraborty.
...For the petitioners.
Mr. Ankit Agarwala,
Ms. Alotriya Mukherjee.
...For the opposite parties.

WITH
C.O. No. 3840 of 2022
Sri Santimoy Mallick
Versus
Hooghly Club & Ors.

Mr. Ankit Agarwala,
Ms. Alotriya Mukherjee.
...For the petitioner.
Mr. Partha Pratim Roy,
Ms. Poulami Chakraborty.
...For the opposite parties.

Since a similar question of law and facts are involved in these revisional applications, the revisional applications are taken up together and heard analogously and disposed of by a counter order.

In Re: C.O. No. 3840 of 2022

This is an application by which the defendants have challenged an order dated March 31, 2023 passed by the learned Civil Judge (Junior Division) at Chinsurah, Hooghly in Title Suit No. 43 of 2012.

By the impugned order, the learned Court closed the cross-examination of DW-1.

Mr. Ankit Agarwala, learned Advocate for the petitioner submits that unless the cross-examination of DW-1 was completed in full and DW-1 was discharged, and his evidence would not go down in the records. He further submits that the order was extremely harsh and would cause injustice to the defendants. He also submits that the cross-examination of the DW-1 could not be closed as the same was crucial.

Mr. Partha Pratim Roy, learned Advocate for the plaintiff/opposite party no.1 submits that several opportunities had been given to the defendant no.1 to make himself available for cross-examination, but on three occasions even costs were imposed for the absence.

Having considered the rival contentions of the parties and upon going through the impugned order, this Court is of the view that an opportunity should be granted for completion of the cross-examination of DW-1, upon payment of cost of Rs.5,000/-. Such cost shall be paid to the plaintiff within a period of two weeks from date.

In case the cost as directed hereinabove, is not paid, the learned Court shall proceed to dispose of the suit, without allowing any further opportunity to the DW-1.

The learned Court shall fix two dates for completion of the cross-examination of DW-1. The cross-examination of DW-1 shall be completed within a month from date and the suit shall be disposed of within the next four months.

With the aforesaid directions, the instant revisional application is disposed of.

There will be, however, no order as to costs.

In Re: C.O. No. 2785 of 2023

This is an application for expeditious disposal of Title Suit No. 43 of 2012.

In view of the order passed in C.O. No. 3840 of 2022, C.O. No. 2785 of 2023 also stands disposed of.

There will be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Shampa Sarkar, J.)