

C.O. 686 of 2025

Aditya Narayan Prasad & Anr.
-versus-
Shatrudhan Prasad & Ors.

Mr. Rahul Karmakar
Mr. Rajesh Gangopadhyay
Mr. Shoham Sanyal
Mr. S. Biswas
..for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the plaintiffs in a suit for partition injunction and other consequential reliefs and is directed against an order being no. 74 dated September 4, 2024 passed by the learned Civil Judge (Senior Division), Serampore, Hooghly in Title Suit No.661 of 2013. By the order impugned the prayer of the opposite parties for adducing further evidence stood rejected.

Mr. Karmakar, learned advocate appearing for the petitioners submits that the evidence of the defendant was closed on consent by order dated 8th January, 2021 and the suit was fixed for argument. Thereafter, on the prayer of the opposite parties herein liberty was granted to the defendant to adduce further evidence only relating to the deed of gift by order dated 10th February, 2021 upon payment of cost. It is not in dispute that the cost has directed by the order dated 10th February, 2021 was paid.

Mr. Karmakar submits that thereafter the evidence of the defendant was closed by order dated 23rd

November, 2021 and the suit was fixed for argument on 18th January, 2022. Even after that the opposite parties filed the instant application under Section 151 of the Code of Civil Procedure for granting an opportunity to the opposite parties to adduce further evidence with a view to exhibit the deed of gift.

After going through the records this Court finds that the certified copy of the deed of gift was not proved and the same is lying in the records and marked as "X" for identification. It is not in dispute that said deed of gift is the bone of contention between the parties. Since the bone of contention between the parties is the deed of gift which is also under challenge in the suit, this Court is of the considered view that a last opportunity has to be given to the petitioners to adduce evidence with regard to the said deed of gift. The learned trial Judge after noticing that the defendant is responsible for the delay and latches, however, thought it fit to grant one last opportunity to the opposite parties to adduce evidence with regard to the said deed of gift.

It appears from the impugned order that 7th November, 2024 was fixed for further evidence of DW subject to payment of cost of Rs. 3,500/- to the plaintiff.

Mr. Karmakar, learned advocate appearing for the petitioners, in his usual fairness, submits that the cost, as directed by the impugned order, was tendered to the plaintiff petitioner but the same was not accepted as the

petitioners have challenged the said order before this Hon'ble Court.

Mr. Karmakar further submits that the hearing of the suit was adjourned on 7th November, 2024 on the ground of pendency of the civil revisional application and the next date has been fixed on 12th March, 2025 for further evidence of DW-2.

In the event the opposite parties tender the cost as directed by the impugned order to the plaintiff, the plaintiff shall accept the same. In the event the defendants/opposite parties herein do not tender the cost to the petitioner or do not take any steps to adduce evidence with regard to the said deed of gift, no further opportunity shall be granted to the opposite parties to adduce further evidence with regard to the deed of gift.

The learned trial judge is requested to dispose of the suit as expeditiously as possible but preferably by the end of June, 2025.

Accordingly, C.O. 686 of 2025 stands disposed of.

No order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)