

30.04.2025.
15
Ct.No.7.
as

C.O.848 of 2025

Mr. Sankar Das
Vs.
Sri Aditya Kumar Dasgupta

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal,
Mr. Anirban Saha Roy.
...for the Petitioner.

Mr. Bidhayak Lahiri,
Mr. Pradip Kr. Ghosh,
Ms. Bhaswati Lahiri.
...for the Opposite Party.

1. The present revisional application has been preferred under Section 24 of the Code of Civil Procedure, 1908 (hereinafter referred to as the Code) seeking transfer of an appeal, Title Appeal No.93 of 2023 pending before the learned Additional District Judge, 1st Court at Alipore, District 24-Paraganas (South) to this Hon'ble Court.

2. The opposite party, claiming to be the true owner of the suit property, filed a suit for eviction against the petitioner. In contrast, the petitioner filed a suit for declaration, asserting that he has been in possession of the suit property for a considerable period openly, uninterruptedly, and adversely for more than twenty years, in denial of the title of the true owner.

3. However, both suits were heard analogously and disposed of by a common judgment. By the said judgment, the suit for eviction was decreed, while the suit for declaration of title instituted by the petitioner was

dismissed. This common judgment gave rise to two separate appeals. The petitioner filed an appeal challenging the decree of eviction before this Hon'ble Court, which has been registered as FAT No. 439 of 2023 and is currently pending adjudication. Additionally, the petitioner preferred an appeal challenging the portion of the judgment dismissing the suit for declaration before the learned Additional District Judge, 1st Court at Alipore, District South 24-Parganas, which has been registered as Title Appeal No. 93 of 2023.

4. Mr. Bhattacharya, learned advocate representing the petitioner, submits that for the sake of convenience, both appeals should be heard by a single Court. He contends that Title Appeal No. 93 of 2023 should be transferred to this Hon'ble Court. In support of his contention, he relies on an unreported judgment passed by a Co-ordinate Bench of this Court in C.O. 116 of 2015 (Janab Nurun Navi vs. Janab Abdur Rouf Khan & Anr.), where, in a similar situation, such a direction was given.

5. The learned Advocate representing opposite party did not oppose such contention of the petitioner.

6. Heard the learned Advocates representing the respective parties. Perused the materials on record.

7. Admittedly, both the suits were disposed of by a common order, and that common order led to filing two separate appeals: one before this Hon'ble Court and another before the learned Additional District Judge, 1st

Court at Alipore, District 24-Paraganas (South). Therefore, the issue in both the appeals are almost similar.

8. The justification for hearing two appeals analogously by a single Court lies in the objective of preventing contradictory decisions and ensuring that legal principles and interpretations are applied consistently. The application of such a principle is not uncommon in the Indian judiciary. Therefore, in light of this principle, I find no reason to decline the petitioner's contention.

9. Accordingly, the revisional application is allowed. Title Appeal No. 93 of 2023 is withdrawn from the docket of the learned Additional District Judge, 1st Court at Alipore, District South 24-Parganas, for its analogous hearing along with FAT No. 439 of 2023, which is pending final adjudication before this Hon'ble Court.

10. The petitioner shall deposit the special messenger costs within one week from the date of this order. Upon receipt of such costs, the office shall call for the records, and upon receipt of the requisition from this Court, the case records relating to Title Appeal No. 93 of 2023 shall be forwarded to this Court within two weeks thereafter.

11. With this observation and order, the revisional application is disposed of. However, there shall be no order as to the costs.

12. Urgent Photostat certified copy of this order, if applied for, be handed over to the parties on compliance of necessary formalities.

(Partha Sarathi Chatterjee, J.)