

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 984 of 2020

Gouri Sircar
Vs.
Kartick Khamrui & Ors.

Mr. Debdutta Raha
... For the petitioner

Ms. Debjani Sengupta
Ms. Paulomi Ghosh
... For the opposite parties

1. Supplementary affidavit filed on behalf of the petitioner is taken on record.

2. This revisional application has been filed by assailing the two orders, i.e., order no.63 dated 16th November, 2019 and order no.64 dated 1st February, 2020 passed in connection with Miscellaneous Case No.3 of 2014 under Order IX Rule 13 of the Code of Civil Procedure (in short, CPC) for setting aside of the ex parte order passed in the Ejectment Suit No.120 of 2007 wherein the learned Civil Judge (Junior Division), 3rd Court, Alipore, South 24-Parganas rejected the prayers of the application taken out on behalf of the petitioner/ opposite party of the suit for giving an opportunity to cross-examine the PW-1.

3. Learned Trial Court refused the said application by the order dated 16th November, 2019 on the ground of

successive adjournments sought for on behalf of the petitioner.

4. Again, petitioner/opposite party filed an application under Section 151 of the CPC for recalling of the order dated 16th November, 2019 which was also dealt with by the impugned order dated 1st February, 2020 where the learned Trial Judge rejected the application on the ground that the petitioner had no *locus standi* to file the application and admittedly the petitioner was a proforma defendant in the suit.

5. The essential contention of the parties to this revisional application is that the petitioner is in the habit of taking adjournment in the Miscellaneous Case No.3 of 2014 and tried to halt the proceeding of the Miscellaneous Case No.3 of 2014 by not cross-examining the witness by the petitioner/opposite party.

6. From the copy of the orders annexed with the supplementary affidavit, it appears that the petitioner/opposite party took several adjournments in this case and thereby he became the author of the delay of the proceeding in connection with Miscellaneous Case, that too which is pending since 2014.

7. Considering the right of opportunity of being heard, I am of the opinion that an opportunity should be given to the petitioner/opposite party, subject to payment of cost of Rs.5,000/- to be deposited to the petitioner of the

Miscellaneous Case No.3 of 2014 within the date of next hearing before the learned Trial Court.

8. The revisional application stands disposed of with a direction upon the petitioner/opposite party to appear before the Court on the next date already fixed by the learned Trial Court for cross-examination of PW-1.

9. Learned Trial Court is requested to dispose of the Miscellaneous Case No.3 of 2014 as expeditiously as possible as the matter is pending since 2014, without giving any unnecessary adjournment to any of the parties.

10. As a sequel, the orders dated 16th November, 2019 1st February, 2020 passed in connection with Miscellaneous Case No.3 of 2014 stand set aside.

11. Connected application, if any, also stands disposed of.

12. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

13. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)