

Sl. 149
06.05.2025
Court No.6
BP

C.O. 1162 of 2024

Smt. Gita Ghosh
-versus-
Smt. Indira Mukherjee & Ors.

Mr. Abhilash Chatterjee
..for the petitioner

Mr. Debanjan Banerjee
..for the opposite party no.1

Affidavit of service filed in Court today is taken on record.

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being dated 9th January, 2024 passed by the learned Additional District Judge, First Track Court-II, Howrah in Probate Suit No. 22 of 2015.

By the order impugned the application under Order 6 Rule 16 of the Code of Civil Procedure was allowed and the additional written statement was struck off.

It is not in dispute that an application under Order 6 Rule 17 of the Code of Civil Procedure filed by the opposite parties herein was allowed and the petitioner herein was given liberty to file an additional written statement. The additional written statement filed by the petitioner pursuant to the liberty granted by the learned trial judge was struck out in exercise of power

under Order 6 Rule 16 of the Code of Civil Procedure on the ground that the facts which the petitioner has stated in the additional written are merely repetition of the same fact.

However, after going through the written statement and the additional written statement this Court is of the considered view that certain additional facts have been stated in the additional written statement and it cannot be said that the averments made in the additional written statement are merely repetition of the same facts as mentioned in the original written statement.

For such reason, this Court is inclined to interfere with the order impugned. Accordingly, the impugned order is set aside.

C.O. 1162 of 2024 stands allowed.

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.)