

M/L- 1560
18/06/2025
Ct. No.-6
Aritra

C.O. 1408 of 2024

**Nitya Gopal Panja
Vs.
Shrimati Soroshi Panja & Ors.**

Mr. Rabindranath Mahato
Mr. Aritra Shankar Ray
....for the petitioner

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

Mr. Mahato, learned advocate appearing for the petitioner submits that the suit was decreed ex parte. However, in compliance with the order dated January 8, 2025, copy of the revisional application was forwarded to the opposite parties. He submits that the opposite parties excepting the opposite party No.2 refused to accept the service of the copy of the application. He submits that insofar as the registered envelop addressed to the opposite party No.2 is concerned the same returned with the endorsement insufficient address.

However, taking into fact that the suit was decreed ex parte and service upon most of the opposite parties is deemed to be satisfactory, this Court proceeds to take up the civil revision application for hearing.

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being No.34 dated

March 12, 2024 passed by the learned Civil Judge (Jr. Div.), 2nd Court, Paschim Medinipur, Sadar in Title Suit No.728 of 2017.

The petitioner filed an application for rectification of the judgment. In the 12th line of page 1 of the judgment dated June 12, 2023 the quantum of land has been wrongly mentioned as “6 ½ decimal” instead of “16 ½ decimals”.

Mr. Mahato, learned advocate appearing for the petitioner draws the attention of the Court to the decree and the schedule of the property as mentioned in the plaint wherefrom this Court finds that the suit property was 814 decimals out of 16 ½ decimals at its western portion.

The learned trial judge rejected the said application only on the ground that the same was not filed during the tenure of the predecessor-in-chair of the Presiding Officer.

Order 20 Rule 2 of the Code of Civil Procedure states that a Judge shall pronounce a judgment written but not pronounced by his predecessor. Order 20 Rule 8 deals with the procedure where the Judge has vacated office before signing the decree. It states that where a Judge vacated office after pronouncing judgment but without signing the decree, a decree drawn up in accordance with such judgment may be signed by his successor or if the Court has ceased to exist, by the

Judge of any Court to which such Court was subordinate.

Upon a conjoint reading of Order 20 Rule 2 and Rule 8 of the Code of Civil Procedure, this Court is of the considered view that correction of a decree can also be done by the successor in office of a Presiding Officer.

Section 152 of the Code of Civil Procedure provides for amendment of judgments, decrees or orders. It states that clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties.

In the case on hand the petitioner approached the learned trial judge for correction of a clerical mistake in the body of the judgment.

For such reason, this Court is of the considered view that the learned trial judge ought to have considered such application on its merit and dispose of the same in accordance with law.

This Court is not inclined to accept the reasoning assigned by the learned trial judge for not allowing the prayer for correction of the judgment.

In view thereof, the order No.34 dated March 4, 2024/March 12, 2024 stands set aside. The learned Civil Judge (Jr. Div.), 2nd Court, Paschim Medinipur, Sadar is directed to consider the application under

Section 152 of the Code of Civil Procedure on its own merit and to dispose of in accordance with law as expeditiously as possible within a period of 8 weeks from the date of an approach being made by the petitioner in this regard.

It is however, made clear that there is no necessity to direct issuance of any notice upon the opposite parties, if any.

With the above observations and directions, CO 1408 of 2024 stands allowed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)