

C.O. 1538 of 2022

Prabir Roy

Vs.

Pinaki Majumder & Ors.

Mr. Kaustav Ch. Das ... for the petitioner

Mr. Ajoy Krishna Chatterjee, Sr. Adv.

Mrs. Sohini Chakraborty

Mr. Arijit Sarkar ... for the O.Ps.

Challenge in this revisional application is the order dated 13.4.2022 passed in connection with Title Suit No. 18395 of 2011 wherein learned Judge accepted the supplementary affidavit-in-chief filed by P.W. 1.

On perusal of the order impugned it appears that, on behalf of the plaintiff one affidavit-in-chief was filed pursuant to the order dated 18.12.2019 whereby P.W. 1 was given liberty to produce the original agreement for sale and accordingly, plaintiff files supplementary affidavit-in-chief on 17.12.201 and availing that opportunity plaintiff annexed other documents along with the original agreement for sale.

Learned counsel appearing on behalf of the petitioner has submitted that liberty was given by the Court to the plaintiff to file agreement for sale and no other documents but plaintiff filed affidavit-in-chief along with other documents including the agreement for sale. It has been further contended the agreement for sale was not duly stamped and required to be impounded but that cannot be allowed to be impounded pursuant to the provision of Section 33(4) (5) of the Indian Stamp Act, 1899 with the West Bengal Amended of 1994 on account of limitation.

Learned counsel appearing on behalf of the opposite parties has submitted that all the documents filed along with the affidavit-in-chief can be considered at the time of hearing of the

suit and the question of impounding of document i.e. original agreement for sale can also be decided by the learned Trial Court on an application filed by the defendant.

So far as the documents filed with the affidavit-in-chief, I am of the opinion, that the admissibility of those documents can be considered at the time of final hearing of the suit and for that reason learned Judge should make an endorsement “with objection” so that parties to the suit may avail the opportunity of argue on the point of admissibility of those documents.

In this regard learned Judge is requested to make necessary endorsement “with objection” against those documents which are reported to have been exhibited. So far as the impounding of document i.e. original agreement for sale petitioner is liberty to file an application before the learned Trial Court on the issue of impounding in terms of provision of Indian Stamped Act. Learned Judge is requested to dispose of the application, if filed, within four weeks from the date of communication of this order and also after giving an opportunity to the plaintiff to file opposition, if sought for.

With the aforesaid direction, the revisional application is disposed of. Connected applications (if any), stand disposed of accordingly.

Interim order, if any, stands vacated.

Parties are act on server copy of this order duly downloaded from the official website of this court.

Urgent certified photocopy of this order, if applied for, be given to the parties, upon completion of requisite formalities.

(Bibhas Ranjan De, J.)