

10.07.2025
Sl. No. 22
AMR
Ct.No.-6

C.O. 2429 of 2025
Nimai Chandra Ghosh
Vs.
Priti Ghosh & Ors.

Mr. Siddhartha Banerjee
Mr. Juin Dutta Chakraborty
Mr. Bidan Modak
Ms. Arpita Kundu

...for the petitioner

Mr. Prantick Ghosh
Ms. Shravani Ghosh

...for the Opposite Parties

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated 27th January, 2025 passed by the learned Additional District Judge, 8th Court, Barasat, North 24-Parganas in O.S. No. 34 of 2015.

By the order impugned, the evidence of P.W. 1 stood closed.

Mr. Banerjee, learned advocate appearing for the petitioner, on instructions, submits that the adjournment was sought for on the ground of illness of P.W. 1. He submits that an opportunity be granted to the petitioner to adduce the evidence of P.W. 1 and other witnesses.

Learned advocate, appearing for the opposite party, vehemently opposes the prayer of Mr. Banerjee. He submits that the petitioner sought for adjournment on several dates on frivolous grounds. He further submits that the petitioner should not be permitted to adduce further evidence and the evidence of P.W. 1 was rightly closed by the learned Trial Judge.

Heard learned advocate for the respective parties and perused the materials placed.

It appears from the impugned order that the examination-in-chief of the petitioner was tendered on 19th January, 2023 and further examination-in-chief was deferred on the prayer of the learned advocate for the petitioner.

Thereafter, the evidence was deferred on 7th October, 2023, 18th November, 2023, 15th March, 2024, 5th June, 2024, 26th July, 2024, 27th September, 2024, 28th November, 2024 and 10th December, 2024.

The learned Trial Judge further recorded that even after giving last chance and special chance, the petitioner did not adduce evidence and stalled the matter praying for adjournments causing delay in disposal of the case.

Considering the fact that this is a suit for probate, this Court is inclined to grant a last opportunity to P.W. 1 to adduce evidence subject to payment of cost. In the event, the P.W. 1 appears before the learned Trial Judge in O.S. No. 34 on the next date fixed in the suit, the petitioner shall be allowed to give evidence subject to payment of cost of Rs. 10,000/- to be paid to the contesting opposite party before the learned Trial Judge at least one day prior to the next date of hearing in O.S. No. 34 of 2015. The quantum of cost has been fixed considering the fact that repeated adjournments were granted to the petitioner.

It is, however, made it clear that in the event the cost, as directed to be paid by this Court, is not paid within the time limit indicated hereinabove, this order shall automatically stand recalled without any further reference to this Court.

In the event, the petitioner complies with the aforesaid direction, the learned Additional District Judge, 8th Court, Barasat, North 24-Parganas shall allow the P.W. 1 to give evidence and shall proceed thereafter in accordance with law. The impugned order dated 27th January, 2025 stands set aside.

With the above observations and directions, C.O. 2429 of 2025 is disposed of by requesting the learned Additional District Judge, 8th Court, Barasat, North 24-Parganas to make an endeavour to see that the O.S. No. 34 of 2015 is disposed of as expeditiously as possible preferably within a period of one year from the next date fixed without granting any unnecessary adjournments to either of the parties.

The time limit has been fixed taking note of the fact that it is suit for probate pending from the year, 2015.

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.)