

02.01.2025
Item No.
AD 8
Saswata

**C.O. 2742 of 2024
CAN 1 of 2024**

**Sanjib Kumar Mahata
versus
Krishna Pada Mahata & Ors.**

Mr. Sakabda Roy
Ms. P. Das

...For the petitioner

Mr. Babai Lal SAhoo
Mr. Sankha Prasad Roy

...For the opposite party nos. 1 & 2.

1. Challenging, inter alia, the order no. 6 dated 18th April 2024 and the order no. 7 dated 8th July 2024 passed by the Learned Civil Judge (Junior Division), Jhargram in Title Suit no. 29 of 2023, the instant revisional application has been filed.

2. The petitioner is aggrieved by the fact that the Learned Judge, despite posting the suit for ex parte hearing and without recalling the order of posting the suit for ex parte hearing, had accepted the written statements filed by the defendant no. 3 and the defendant nos. 1 and 2 on 18th April 2024 and 8th July 2024 respectively.

3. Having heard the learned advocates appearing for the respective parties it appears that the Learned Court had accepted the written statements filed by the defendant no. 3 and defendant nos. 1 & 2. The only irregularity in the order appears to be non-recording of the recalling of the order of posting the suit for ex parte hearing.

4. It appears that by order dated 18th April 2024, the learned Court had accepted the written statements by the defendant no. 3 and subsequently, on 8th July 2024 the learned Court had accepted the written statement filed by the defendant nos. 1 and 2. It is, however, only after acceptance of the written statement of the defendant nos. 1 and 2 on 8th July, 2024 that the above revisional application has been filed.

5. Having regard thereto, I am of the view that the mere irregularity in not recording the factum of recalling the order of posting the suit for ex parte hearing and/or removal of the suit from ex parte board cannot in my view stand in the way of the Learned Judge accepting the written statements especially when the written statement was filed with a prayer for removal of the suit from ex parte board by recall of such order as would corroborate from the application dated 8th July, 2024 appearing at page 34 of this revisional application. However, considering the fact that there had been delay in filing the written statements, I am of the view that the defendant nos. 1 and 2 should be directed to make payment of a sum of Rs.5000/- towards costs to the plaintiffs.

6. Since, I have been informed by the parties that no interlocutory application is pending, the learned Court is directed to expeditiously dispose of the suit.

7. With the above direction and observation, the revisional application being CO 2742 of 2024 along with its connected application being CAN 1 of 2024 is accordingly disposed of.

8. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)