

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 3039 of 2023
with
IA No. CAN 1 of 2024

Shantanu Kundu
Vs.
Soumya Kundu & Anr.

Mr. Rahul Karmakar
Mr. Rajesh Upadhyay
Ms. Surabita Biswas
Mr. Akshay Jain Sukhani
... For the petitioner

Mr. Uddipan Banerjee
Mr. Subhrakanti Samanta
... For the opposite parties

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

2. Challenge in this revisional application is the order dated 21st June, 2023 passed in connection with Title Suit No.233 of 2020 wherein the learned Civil Judge (Senior Division), 2nd Court, Howrah, rejected an application under Order XI Rule 14 of the Code of Civil Procedure (in short, CPC) whereby the plaintiff asked for production of documents by the defendants. Learned Judge in his order has recorded that the plaintiff in his application did not depict the description of the documents sought to be produced by the defendants or necessity of the documents for the purpose of the suit.

3. Learned counsel appearing on behalf of the petitioner has drawn my attention to the application under Order XI Rule 14 of the CPC and submitted that the prayer was made seeking production of documents mentioned in paragraph 22 with reference to Annexures "A" and "A-1" of the written statement. He has also drawn my attention to paragraph 22 of the written statement as well as Annexures "A" and "A-1" wherefrom mentioning of various documents are found.

4. Learned counsel appearing on behalf of the opposite parties has submitted that all the documents mentioned in Annexures "A" and "A-1" to the written statement are not in possession of the defendants/ opposite parties herein.

5. On careful perusal of the order impugned in this revisional application, I find that the learned Judge rejected an application under Order XI Rule 14 of the CPC only on the ground of non-mentioning of description of the documents sought to be produced by the defendants. In this regard, I would like to reproduce the prayer of the application under Order XI Rule 14 of the CPC which runs as follows:-

"It is, therefore, prayed that your Honour will be graciously pleased to direct the defendants to produce the documents which have been referred to in their written statement in paragraph no.22 on Annexure-A & A1 and for ready reference the said copy of Annexure-A and A1 is enclosed

herewith which shall be treated as Schedule to this application for production of the documents under Order 11 Rule 14 read with Section 151 of Code of Civil Procedure.”

6. On scrutiny of the prayer of the application under Order XI Rule 14 of the CPC, I find that there is sufficient description to identify the documents sought to be produced by the defendants. Therefore, I am not agreeable with the learned Judge that no description of documents was mentioned in the application under Order XI Rule 14 of the CPC. Annexures “A” and “A-1” to the written statement clearly reveal every details of the documents sought to be produced by the application under Order XI Rule 14 of the CPC.

7. In the aforesaid view of the matter, the order impugned dated 21st June, 2023 stands set aside.

8. The prayer under Order XI Rule 14 of the CPC stands allowed and the opposite parties/defendants are to produce the documents mentioned in Annexures “A” and “A-1”, subject to availability of the documents, for the proper adjudication of the suit which was filed for partition among the parties with respect to both moveable and immovable properties.

9. The revisional application, being CO 3039 of 2023, stands disposed of with a direction upon the defendants/opposite parties herein to file all the documents, subject to availability, before the learned

Trial Court within 15 days from the date of communication of this order.

10. Learned counsel appearing on behalf of the parties are at liberty to bring this order to the notice of the learned Trial Judge, forthwith.

11. Interim order stands vacated.

12. As a result, CAN 1 of 2024 stands disposed of.

13. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

14. Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Bibhas Ranjan De, J.)