

19.06.2025
Item No.86

Court No.25
sg

C.O. 3824 of 2023

**Manjushree Halder
Vs.
Sumit Kumar Ghosal**

Mr. Debanjan Mukherjee
Mr. Joyjit Choudhury

....for the petitioner.

Mr. Partha Pratim Roy
Mr. A. Das

....for the opposite party.

1. Affidavit of service filed by the petitioner be taken on record.

2. Present petition has been filed challenging the order dated 18th August, 2023 passed by the learned Civil Judge (Senior Division), 3rd Court, Barasat while application filed under Order XII Rule 6 of the Civil Procedure Code was dismissed at the outset. It is necessary to reproduce the order dated 18th August, 2023

“Plaintiff filed Hazira.

Def. filed an adj. ptn. Copy served, obj. raised.

Heard, considered. Ptn. U/o. 12 r 6 of CPC is rejected.

Fix 10.10.23 for framing of issues.”

3. Learned counsel for the petitioner submits that the petitioner/plaintiff had filed a suit for partition and permanent injunction Title Suit

No. 1006 of 2016 against the opposite party/defendant.

4. Learned counsel submits that in the written statement filed by the opposite party/defendant, it was admitted that the plaintiff and defendant are the absolute owners of the suit property in equal shares by way of inheritance. Learned counsel submits that pursuant to this an application under Order XII Rule 6 of the Civil Procedure Code was filed by the petitioner/plaintiff for passing preliminary decree on the basis of admission. Learned counsel submits that the learned Trial Court dismissed the application vide impugned order by a single line saying that the application is considered and rejected.
5. The Court is shocked to see the order of learned Trial Judge. Time and again it has been stated that Courts while passing an order are required to give the reasons. The reasons in the order are basically the expression of judicial opinion on the matter before the Court. Such judicial opinion is then considered by the Appellate Court when the same are challenged by the parties. Any orders bereft of decision creates the suspicion in the mind of the litigants and other stake holders. Absence of reasons in Judicial

order is also violation of the principles of Natural Justice. The appellate Court is also deprived of an opportunity to know and understand the reasons /logic behind passing an order.

6. The Code of Civil Procedure provides the detailed mechanism for challenging an order. Thus, the trial Court Judges are duty bound to detail the reasons in their judicial order. Any order which is bereft of order cannot be sustained in the eyes of law. In view of the discussion made herein above the impugned order is set aside. The matter is remanded back to the learned Trial Court for deciding the application under Order X Rule 12 of the Civil Procedure Code afresh after taking objection on record of the opposite party in accordance with law. It has been stated by both learned counsels that there are other applications also pending for disposal. Learned Trial Court is directed to dispose off all the pending applications within period of twelve weeks.
7. Learned Trial Court is also requested to conduct the trial expeditiously in accordance with law.
8. Hence petition is disposed off.

(Dinesh Kumar Sharma, J.)

