

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE

CO 3634 of 2022

Bibhuti Bhusan Ghosh
Vs.
Kamal Ghosh

Ms. Kaberi Ghosh (Dey)
... For the petitioner

Mr. S.N. Dutta
Mr. Alok Srivastava
Mr. M.K. Sharma
... For the opposite party

1. The instant revisional application has been filed assailing the order dated 28th October, 2022 passed in connection with Title Suit No.283 of 2020 wherein the learned Civil Judge (Junior Division), 1st Court, Serampore, Hooghly took an application under Section 114 of the Transfer of Property Act (in short, TP Act) and fixed date for hearing of the application on 30th November, 2022 after taking evidence adduced by the parties to the suit.

2. Learned counsel appearing on behalf of the petitioner has submitted that in the written objection to the application under Section 114(g) of the TP Act, the question of maintainability of the application under Section 114 of the TP Act was taken, particularly, in paragraph 13.

3. From the impugned order, I find that the learned Judge did not dispose of the application either on merit or on the issue of maintainability.

4. In these circumstances, this Court finds no reason to decide the issue which was not dealt with by the learned Trial Judge in the suit where the application impugned in this revisional application was filed.

5. As a sequel, the order dated 28th November, 2022 stands set aside.

6. The learned Trial Judge is requested to dispose of the application under Section 114 of the TP Act subject to giving a decision on the issue of maintainability of the application under Section 114 of the TP Act after giving an opportunity of hearing to both the parties to the suit.

7. The learned Trial Judge is also requested to dispose of the application as expeditiously as possible.

8. I make it abundantly clear that I have not gone into the merit of the issue raised in this revisional application with respect to the application under Section 114 of the TP Act.

9. With the above observation, the revisional application stands disposed of.

10. Parties are at liberty to communicate this order to the learned Trial Court forthwith for necessary information.

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

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

(Bibhas Ranjan De, J.)