

24.03.2025
SL No.4
Court No.22
S.Gayen

CO 4158 of 2023
Sri Amar Pandey
Versus
Sri Pranab Bose & Ors.

Mr. Surya Prasad Chattopadhyay
Mr. Arjun Samanta
Ms. Trishpriya Mancharji
...for the Petitioner

Mr. Arif Ali
Mr. Sarban Bhattacharjee
...for the Opposite Parties

1. The instant revisional application has been filed challenging the legality of the order No. 259 dated 7th August, 2023 passed by the learned Civil Judge (Junior Division), 2nd Court, Alipore, South 24 Parganas in connection with Title Suit No. 503 of 1984, whereby the petitioner prayed for rejection of the affidavit-in-chief and also for non-consideration of the additional documents filed by the plaintiff, which were rejected by the learned Judge through the impugned order.
2. Mr. Surya Prasad Chattopadhyay, learned counsel appearing on behalf of the petitioner has vehemently submitted that at the time of evidence, the plaintiff filed the affidavit-in-chief which contained contentions beyond pleadings. It is further alleged that the plaintiff tried to file some documents which were never produced or disclosed before or at the

time of filing the suit, which is not permissible in law. Therefore, Mr. Chattopadhyay through the above contention has tried to make this Court understand that the impugned order is bad in the eye of law and is liable to set aside.

3. *Per contra*, Mr. Ali, learned counsel appearing on behalf of the opposite parties has contended that the petitioner/defendant is yet to cross-examine the PW1 and there is no such document filed on behalf of the opposite parties which is beyond the pleadings. Therefore, the impugned order in no stretch of imagination can be said to be unsustainable and as such, no kind of interference of this Court is required at this stage.
4. Having heard the rival contentions advanced on behalf of the parties as well as after going through the impugned order, the only issue involved in this application, in my opinion revolves around the sole determining factor that is whether affidavit-in-chief contains the facts which are beyond pleadings with support of some documents which were not produced earlier at the time of filing of the suit.
5. In order to find answer to the issue involving in this application, it would be pertinent to first peruse the impugned order. A careful scrutiny of the same discloses that the learned Trial Judge while deciding the fate of the petition filed before him, recorded his

observation regarding **‘relevancy’** of the documents produced before him without any extensive trial to that effect when already an objection was raised that the documents were beyond pleadings and finally dismissed both the petitions.

6. In this situation, I feel that it is pertinent to shed light on the concept of ‘relevancy’ and ‘admissibility’ for just adjudication of the *lis*. Relevancy means the logical connection between the facts that make the existence or non-existence of others likely. Whereas, admissibility on the other hand, is defined as the status of facts declared legally significant under the Indian Evidence Act, eligible for consideration of the Court.
7. Keeping an eye to the definition mentioned hereinabove, the role of the concept of the relevancy is to act as a **decisive factor** in guiding the Court for considering the evidence logically connected to the issues when admittedly there is an objection raised by the other side regarding such evidence.
8. Therefore, the learned Trial Judge ought not to have used the term **‘relevant’** at the time of admitting documents submitted on behalf of the plaintiff/opposite party herein, thereby not leaving any scope for final adjudication of the issue of ‘admissibility of production of documents beyond pleadings’.

9. In the aforesaid view of the matter, the observation relating to relevance of documents with respect to the suit made by the learned Trial Judge stands deleted. The learned Trial Judge is requested to record the objection after marking the documents as exhibits so that the issue regarding admissibility of such documents remains alive for consideration during final hearing. However, I would like to make it clear that there should be no interference with the remaining operative portion of the order dated 7th August, 2023.
10. Further, I make it abundantly clear that no observation with regard to the merit of the suit is being made and considering the long pendency of the suit i.e. 41 years, the learned Trial Judge is requested to dispose of the suit preferably within six months from the date of communication of this order, strictly in accordance with law without affording any unnecessary adjournments to either of the parties and also to not get influenced in any manner whatsoever with any of the observations made hereinabove.
11. In the aforesaid view of the matter, the instant revisional application stands disposed of.
12. Interim order, if any, stands vacated and connected application, if any, also stands disposed of accordingly.

13. The parties are at liberty to intimate the order to the learned Trial Judge for information.
14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.
15. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all requisite formalities.

(Bibhas Ranjan De, J.)