

21.05.2026
Ct No.2
D/L 28
Mujahid

CO 209 of 2024

Chunnilal Agarwal
Vs.
State Bank of India & Ors.

Mr. Saptarshi Roy
Ms. Kakali Das Chakraborty

...for the petitioner

Ms. Shohini Chakraborty

...for the opposite party no.3

Mr. Sankar Nath Mukherjee
Mr. Niraj Gupta

...for the opposite party no.4

1. Present revision petition has been filed challenging the order dated 20th November, 2023 whereby the application filed under Section 152 read with Section 15 of the CPC by the plaintiff/petitioner was dismissed.

2. In order to understand the fact it is necessary to refer to some basic facts. The petitioner herein filed a Title Suit No. 303 of 2021 against the defendant/opposite parties for declaration and for permanent injunction. An objection as to territorial jurisdiction was taken in this case and the learned trial court, inter alia, found that the suit is substantially for immovable property and as the bank locker is situated outside the jurisdiction of this

court, this Court has no jurisdiction to hear and decide the present case. Learned trial court further directed that the plaint to be returned to the plaintiff for presentation before the proper court. However, while concluding learned Civil Judge inter alia stated that the instant suit is found to be not maintainable and is accordingly dismissed from contest.

3. The petitioner aggrieved of this, filed an application under Section 152 read with Section 151 CPC for correction/modification. However, learned trial court dismissed this application inter alia on the ground that the modification/correction would amount to changing the whole order. The petition was taken up by the Coordinated Bench of this Court on 23rd of April, 2024, wherein the following order was passed:-

“In my prima facie view, the learned Civil Judge (Junior Division), 1st Court at Barrackpore, North 24 Parganas, misconstrued the provision of 152 of the Code of Civil Procedure by refusing to delete the ordering portion which appears to be contrary to the entire body of the judgment. The learned court was of the view that the plaint should be returned for presentation before the proper court as the court did not have jurisdiction. In the ordering portion, the learned court dismissed the suit as not maintainable. The petitioner/plaintiff approached the learned court for correction. The same was refused on the ground that the correction would amount to

upsetting the entire order. It does not stand to reason that the petitioner shall be non-suited when the order as it has gone down is a bona fide mistake.

Service upon the opposite parties as also the learned advocate appearing on behalf of the opposite parties in the learned court and affidavit of service to be filed on the next date. In the meantime, status quo with regard to bank locker shall be maintained.

Let the matter appear on June 17, 2024 at 4:00 p.m.”

4. The learned counsel for the petitioner submits that the learned trial Court has rightly reached to the finding in terms of the Order 7 Rule 10 CPC and further procedures were to be followed as described under Order 7 Rule 10A of the Civil Procedure Code 1908. However, learned trial Court fell into error by directing the suit to be dismissed.

5. Reliance has been placed upon **Jayalakshmi Coelho v. Oswald Joseph Coelho**, (2001) 4 SCC 181.

6. Learned counsel for the opposite party vo.4 has submitted that the appropriate order may be passed regarding the return of plaint and its registration with the court having territorial jurisdiction.

7. Learned counsel for opposite party no. 3, submits that there is no fault in the order of the

learned Trial Court. Learned counsel for opposite party no.3 also submits that an appropriate order may be passed.

8. Learned counsel for the petitioner submits that the State Bank of India, as well as Mr. Neeraj Gupta, learned advocate appearing for the State Bank of India has duly been served. The proof of service has been placed on record.

9. The entire tone and tenor of the Order No. 14, dated 9th of November, 2022 of the learned trial Court indicates that it has reached to a conclusion that the plaint is liable to be returned for presentation before the court having territorial jurisdiction. However, instead of passing an order for return of plaint and further proceedings as prescribed under Order 7 Rule 10A of the C.P.C., learned trial court dismissed the suit on contest and further refused to correct or modify the order. The court considers that there is manifest error in the order of the learned trial Court, dated 9th November, 2022, and 20th November, 2023.

10. Thus, the order dated 20th November, 2023, is set aside and the order dated 9th November, 2022, is modified to the extent that the plaint be returned to the plaintiff for presentation before the proper court in accordance with law.

11. CO 209 of 2024 stands disposed of.

12. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Dinesh Kumar Sharma, J.)