

22.04.2026

Ct No.2
D/L 3
Mujahid

CO 2305 of 2023

Suraj Sur
Vs.
Deb Kumar Sur & Ors.

Mr. Bratin Kr. Dey
Ms. Anjana Banerjee

...for the petitioner

Mr. Prashant Kr. Singh
Mr. Somdev Ash

...for the opposite parties

1. Present revision petition has been filed challenging the Order No.56 dated 30th March, 2023, Order No.57 dated 5th April, 2023 and Order No.58 dated 6th April, 2024.

2. At the heart of the controversy are two applications being filed by the petitioner/plaintiff under Section 151 of the CPC for recording of evidence of the petitioner/plaintiff through video conferencing and another application under Order XI Rule 14 of the CPC for production of documents. Learned trial court considered all these three applications on different dates as recorded in Order Nos. 56, 57 and 58 and finally the findings culminated into the Order No.58 dated 6th April, 2023.

3. The controversy on a brief canvass is that the petitioner/plaintiff filed the suit for declaration and permanent injunction with the opposite parties as defendants.

4. The plaintiff/petitioner is permanent resident of Helsinki, Finland. All the defendants/opposite parties filed a composite written statement as being stated on the bar. During the pendency of the proceedings, the petitioner/plaintiff filed an application under Order XI Rule 14 of the CPC directing defendants to produce the following documents:-

A. Partnership Deed reconstituted and notarized on 09/02/2007.

B. Partnership Deed registered on 30.03.2011 at District Sub Registered-II of Hooghly. Office of the D.S.R.-II Hooghly, Deed-42, Vol.1. pages 493 – 514

C. Partnership Deed reconstituted on 21.04.2011.

D. Partnership Deed reconstituted and notarized on 07.04.2014.

5. Admittedly, only defendant no.1 filed the reply to the application denying the possession of these documents. Learned trial court vide impugned order dated 5th April, 2023 dismissed the application on the ground that such a direction can be passed only if the document is in possession of the other party. As

being stated, the other defendants had not filed any reply to this application under Order XI Rule 14 of the CPC denying or admitting the possession of the documents. In the circumstances, in absence of any categorical pleadings on behalf of the remaining defendants except defendant no.1, learned trial court could not have proceeded to decide the application under Order XI Rule 14 of the CPC. Hence, the orders regarding dismissal of application under Order XI Rule 14 of the CPC cannot sustain in the eyes of law and is liable to be set aside.

6. Thus, the application under Order XI Rule 14 of the CPC is remitted back to the learned trial court for deciding in accordance with the law after taking the reply on affidavit of all the defendants and then to decide the same in accordance with the law. In regard to the application under Section 151 of the CPC for recording of evidence of the petitioner/plaintiff, who is permanent resident of Finland through video conferencing, this Court sees no impediment in recording of the evidence of the petitioner/plaintiff through video conferencing in terms of the Rules “Rules for Video Conferencing for Courts” duly notified on 16th December, 2021 and published in the Kolkata Gazette on 24th December, 2021. Learned trial court must be proactive in making these rules workable and allow the recording of evidence through

video conferencing where it is required to do so. Hence, the plaintiff/petitioner shall move a fresh application for recording of evidence of plaintiff/petitioner through video conferencing in terms of the Video Conferencing Rules, High Court at Calcutta. Learned trial court shall allow the same in terms of the said Rules.

7. In view of the discussion made hereinabove, the impugned orders are set aside. However, this Court has not gone into the merits of the averments of both the parties regarding under Order XI Rule 14 of the CPC. Learned trial court shall decide the same in accordance with the law.

8. CO 2305 of 2023 stands disposed of.

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

(Dinesh Kumar Sharma, J.)